

## METROPOLITAN AREA PLANNING COMMISSION

### MINUTES

April 19, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, April 19, 2001 at 1:00 p.m., in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Dorman Blake; Kerry Coulter (late arrival); Frank Garofalo; Bud Hentzen; Richard Lopez; Susan Osborne-Howes; George Platt; Harold Warner; and Ray Warren. James Barfield, Bill Johnson; Ron Marnell, and John W. McKay, Jr., were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; and Karen Wolf, Recording Secretary.

#### **1. Consideration of Proposed Amendments to the Unified Zoning Code regarding parking and storage on residential lots.**

**DONNA GOLTRY**, Planning staff "This item is looking at the parking and storing of vehicles portion of the Unified Zoning Code. I have handed out, at your desk today, a newly updated list of proposed changes to those items that deal with parking and storage. I have added in some additional information on other related definitions that I am not proposing any changes to, necessarily, from what you have seen in the previous drafts, but trying to collect all of the items that deal with parking and storage more in one centralized location; so you can focus on it.

In terms of defining garages and parking areas, what we have attempted to do is to add some accessory type uses, which would be boats, trailers and RVs to specifically set out that those are allowed to be parked inside your garage, or in the case of the definition for 'parking' that they would be allowed to be parked as a parked item. That means you can park it up to 72 hours.

Now, I have had a lot of difficulty coming up with a clear way to state this because we are allowing motor vehicles, boats, RVs and trailers—trailers are subject to some size limitations—we are not allowing inoperable vehicles to be parked in private parking areas. So, if you look down under parking, under the first definition in Section II-B.10.a—that is the next to last definition on Page 1, this is one that has been difficult to structure so that it is clear to everybody. I have just been consulting with legal counsel from the City and the County and they have a further suggestion that would probably clear up once and for all the ambiguity on the exception part. That is to use parenthesis so it would be 'parking' means the temporary location for not more than 72 consecutive hours, of motor vehicles (except for inoperable vehicles). We try to stay from parenthesis. You don't know how hard we try to stay away from them in writing legal documents. It is one of those 'no nos', but we have written this 6 ways around and it isn't clear no matter which way you write it; and if you use those two little parentheses, obviously they have a valid reason to be—because just doing that alone, as Joe was suggesting, clears it up."

**WARREN** "Let me get that again. You put parenthesis around 'except for inoperable vehicles'?"

**KROUT** "That is on 'a' on the first page and 'd' on the second page."

**GOLTRY** "Yes. On 'a' and then 'd'. I think maybe, after much struggle, that hopefully gets to a clear interpretation of what we are saying. Now, we can still argue about whether or not we think this is the right thing to do because this is showing that you can park your trailer, your RV, or your boat, in your private parking area on a temporary parked basis. Not on a stored basis, but on a parked basis.

If you will turn to Page 3, and if you look under the definition of 'Wrecking/Salvage Yard', this last sentence has been added: 'in the unincorporated area of the County only, the term 'Wrecking/Salvage Yard' shall not include the storage of—and please add these three words—inoperable vehicles or—salvage materials as permitted in Section 19-22 (c) of the Sedgwick County Code'. What that phrase will be doing is incorporating, by reference, the Nuisance Code that was adopted by the County relating to inoperable vehicles and storage of salvage materials whereby they are allowing them to store up to 9 vehicles in a yard so long as it is not occupying the front yard setback, although they have a maximum distance setback limit of 100 feet, and so long as it is screened. Are there any questions about that before I go on?"

**WARREN** "I would assume that that doesn't mean the commercial salvage yards...we're not talking about them, are we?"

**GOLTRY** "No. What we are doing is excepting out of a commercial salvage yard that you can have these private salvage/inoperable vehicle storage yards operating all over the County now.

Then, in the last two areas where we deal with storage of vehicles, RVs, boats, etc. in residential areas. This is where they are treated as a residential accessory use. Now, because of the differences and how the City and the

County are approaching, at this point, what you can store as a residential accessory use, what I am suggesting is that we break it out and we have one section that deals with what can be stored in the back yard in the City, and one section that deals with what can be stored in the County. So that is why you see items 11 and 12 as separate lists. On the City's part, they are basically saying—and I reformatted it to put it more in outline form again because of the same thing that we talked about earlier today, we have just had so many people misinterpret what the list meant because it is a list that has a lot of modifying clauses with it. So many people get lost in the list and can't interpret which type of trailer we mean and what was excepted. Well, it is probably clearer if you just put it out in a,b,c and d format. So that is where it is at this point.

You can see that we have added (1) unoccupied recreational vehicles and boats, (2) trailers are exempt from motor vehicle registration, (3) Motor vehicles excluding any and inoperable vehicles. In the City, you are not allowed to store your inoperable vehicles in your back yard as a residential accessory use. In the County, it is (1) unoccupied RVs, (2) boats, and (3) trailers that are exempt from (4) motor vehicle registration. Motor vehicles that are permitted as specified in Section 19-22(c)—that is in the Nuisance Code—and (5) construction equipment with less than 50 horsepower, which was something that was discussed in the Advance Plans Committee and recommended in order to allow people to have their construction equipment, the small construction equipment stored on-site.

I am sorry that several of our people from the Advance Plans Committee are not here today—Mr. McKay and Mr. Marnell and Ms. Susan Osborne-Howes, because we have walked through this for several weeks and this is a version that they haven't been able to respond to since I just prepared it. And I know that both Mr. Hentzen and Mr. Garofalo have been through this, we have gone through our many weeks of discussion. But I regret that Mr. McKay, Mr. Marnell and Ms. Osborne-Howes aren't here to participate in this discussion today as well.

I would specifically like to ask if Mr. Lang from the City or Mr. Blase from the County have any modifying comments that they want to make, or if Mr. Krout has any comments to make."

**MICHAELIS** "Are there any questions from the Commission?"

**WARREN** "I still have a question on this Wrecking/Salvage Yard. We are replacing....to me, that is a commercial salvage yard, or what you would call a junk yard or automobile salvage yard...and you are saying that that is not what that means? That this is more for a private yard, not commercial?"

**GOLTRY** "Are you asking can we store inoperable vehicles in the back yard, would that make it a commercial operation?"

**WARREN** "No. I am saying, does this include a commercial operation?"

**KROUT** "No."

**WARREN** "Where do we describe commercial operations?"

**GOLTRY** "A Wrecking/Salvage Yard is a commercial classification. If you have more than 9, you do become. Is there something missing here? That is possible."

**KROUT** "Let me try to explain. What we have done is—Wrecking/Salvage Yard is a definition that we had and we are proposing to retain—just to clarify a little bit in terms of materials, and the Code does say that a wrecking/salvage yard does require industrial zoning and a Conditional Use. But what we are doing here is making an exception, and the purpose of the exception is to recognize the new Nuisance Resolution that the County has. That says that the exception is that you can have almost unlimited storage of your own household items and inoperable vehicles, up to 9. Because the State law says that over 9, it becomes a salvage yard and you need a license. But you can do those things in your back yard as long as they are screened and 100 feet back from your property and that is not a wrecking/salvage yard. That is a permitted use within the County in a residential district because that is the resolution that the County approved last week.

So all we are doing here is saying that if someone has that stuff behind their fence on residential property and they meet all of the standards in the County's Nuisance Resolution, Section 19-22(c), it is not a wrecking/salvage yard."

**WARREN** "I think I follow you on that. I guess what I am concerned with is with the wording as it is, this last sentence says 'In the unincorporated area of the County only, the term 'Wrecking/Salvage Yards shall not include the storage of inoperative vehicles, and yet in commercial we do allow storage of inoperative vehicles. So I hope we aren't excluding the storage of inoperative vehicles in a commercial salvage yard by what we are writing here."

**KROUT** "It doesn't."

**WARREN** "Well, it does, in my opinion, unless you have another description for the commercial. It looks to me like you have put the two of them together, and it seems to me like we need a description for a commercially operated, licensed salvage yard."

**GOLTRY** "I think, Mr. Warren, if you look back to that previous sentence, it says that a wrecking/salvage yard is 'for the collecting, dismantling, storing and/or salvaging of', and then it lists what you store and salvage. It is machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials."

**WARREN** "Well, I guess what I am saying is that that last sentence then contradicts that."

**GOLTRY** "Do you mean the one 'in the unincorporated area'?"

**WARREN** "Yeah. You are still talking about a wrecking/salvage yard."

**GOLTRY** "Okay. I think I see what you are saying. (Pausing to read) I hear what you are saying now. What you are saying is is the exclusion there, and I think I want to call on Aaron for this."

**AARON BLASE** "I am an Assistant County Counselor. I am not sure that this directly answers that question, but in Section 19-22 (c), in order to be properly exempted, the salvage material and the inoperable vehicles must be the personal property of the occupant of the property. I don't know if that is going to make it a personal storage issue versus a commercial operation. I think that is the intent of that."

**WARREN** "I think what I am looking for here is some kind of a separation and identification through definition of a commercial salvage yard versus this thing we are trying to allow in the way of a private property-type salvage yard. I think if you keep that last sentence in that, to read it, it talks about 'Wrecking/Salvage Yard', which is what you are calling a commercial use. It says there that you can't have any inoperable vehicles."

**GOLTRY** "If you read the Section 19-22 (c) in its entirety, I think it makes clear that if you get to the point that you would have to have a commercial salvage license, that you could no longer do this. Probably, legally, it addresses the issue you are raising because of the full text of the Nuisance Code. I can see where, if you were just reading it independently, you would come up with that reading."

**WARREN** "I am just reading what you provided us with today."

**GOLTRY** "Right. Within the Nuisance Code, it spells out when it is a residential use and when does it become a commercial use, and when is it the private property and when is it not the private property. That is the distinction between a private residential use and a commercial use."

**WARREN** "Marvin, I would still wonder if there couldn't be in the definition, something that separates the private Wrecking/Salvage Yard from the commercial."

**KROUT** "I think our purpose is not to create a use called the private salvage yard of things that are allowed in a residential district, but what we are trying to say is you are allowed to have a certain amount of outside storage if it is properly screened and with the regular paving, and that is counted in the County as an accessory use, apart from a residential use."

**PLATT** "It is not a Wrecking/Salvage Yard."

**WARREN** "Yes it is. You have identified it as such here 'in the unincorporated area of the County only, the term 'Wrecking/Salvage Yard' shall not include the storage of inoperable vehicles'."

**PLATT** "Shall not include."

**WARREN** "I understand that, but we do have wrecking and salvage yards that do include that. Maybe there is more. I will wait until you read more."

**GOLTRY** "Yes, I think I handed them out last time, perhaps."

**WARREN** "Yeah, I've got it."

**GAROFALO** "Is the number of inoperable vehicles for the County, ...shouldn't that be in here somewhere?"

**GOLTRY** "The County's number is 9—is it up to or including 9? Because that is where you are required by the State to get the license. That is included in the Nuisance Code."

**GAROFALO** "Is that somewhere in here?"

**KROUT** "I don't think it needs to be."

**BLASE** "It doesn't need to be. There is not a number mentioned in the County's Code. It just refers to the state statute, which allows you to have up to 9, and beyond that you need to get state certified as a salvage yard."

**GAROFALO** "So in other words, if somebody reads this, they have to know what the state statute says. Wouldn't it be simpler to put it somewhere in here—quote it so that those folks will know that they can only have up to 9?"

**BLASE** "That was an option that the Board of County Commission looked at, but opted, instead, to simply refer to the state statute."

**MICHAELIS** "Are there any more questions of Ms. Goltry?"

**WARREN** "I might just point out that on Page 27 of our existing Code, on Item 'B' at the top, it calls for a salvage yard. It says 'see Auto/Salvage wrecking salvage yard'. If you go to auto wrecking/salvage yard, there isn't one."

**GOLTRY** "On your current Code? That is correct. That is an error on those. That has been corrected on this draft. That cross-reference is right."

**MICHAELIS** "If there are no further questions of Ms. Goltry, we will open it up to the audience. I would just like to emphasize that we would like to limit the comments to the particular topics we are on today and not necessarily get into other things and what the County has recently approved. Keeping that in mind, is there anyone here to address the Commission?"

Coulter arrived at the meeting at 1:20 p.m.

**JOHN DAILEY** "My address is P.O. Box 381 Valley Center, Kansas. I have been a resident of the unincorporated Sedgwick County for just about 30 years. At the top of the page was what you and the public was given last week, so that has changed a little bit.

Some of this has, from what it used to be, and some of it is what is proposed to be. I wanted to show you the comparisons. The next one down is a definition that was used when the 1996 book was printed. You can see that there are changes in actually the next four. They have incorporated and switched around the next four to what they are proposing now. It changes the meaning of the wrecking yards. One particular thing, the storage yard and an arrow there. It was meant for inoperable vehicles. Now they are calling it vehicle storage yard and you can't have that now. It always clumped in with the wrecking/dismantle business-type yard. The storage yard, and particularly out in the County is what I am talking about, not in the City, you could have the storage yard and it didn't have to be a wrecking yard; it could just be a storage yard.

The number 3 that has the circle on it is from the proposed. It says that there are no non-conformities created by the adoption of this Code. Well, then, you go to Page 224 on the proposed Code, and it says that you have to register them. Well, if there is no non-conformities, why do you have to register these? And notice that you have to register them by January of 1997. This is already 2001. Something that is made a non-conformity by this Code cannot be registered by January of 1997. So there are some loose things in here, and like particularly the container law that you have had, there is something new in it. There is something new in every little bit of this that they have tightened up a little bit so it is not conforming. But if you don't go down and register it, then by what they have, it is non-conforming.

The letter 'h' that I have highlighted there is in the proposal, and it makes the landowner have the burden to prove that he is innocent. That should be changed. If they don't know and if they are consistent with what their zoning is, they are doing what they are supposed to be doing. I would bet that most of the people in the County don't know that this new book is coming up. So they think they are okay, so how do they know to register what they need to register?

Down at the very bottom, there is, out of the state law book, 2,000 supplements; there is the back up of what you and I would call the 'grandfather law', and it is that if it is existing, then it is okay. It doesn't say that you have to register it. It is the Zoning Department that is saying that it is registered. The back page is just to show you that in the middle 80s, probably 1984 by the number, they started zoning the whole county, with particular notice to (a) and (c). If you would compare what they had back then, like in continuing existence, in other words 'grandfathering', you could continue that indefinitely. That doesn't say in perpetuity, but it says indefinitely. So unless you are informed that you need to do something, if you need to register, that you have no idea. The (a) up there, somewhere it is the Administrator that is supposed to keep the non-conforming records. It is not saying that the landowner must go down and register this, it is up to the Zoning Administrator to let the person know that they

are putting them on a list so they would know they are not conforming. They would have that on their records and they wouldn't bother you.

That is about it. If you could compare those things of what it has been and what is proposed and see the differences, and compare that—the definitions, and check into Item (h) about making you prove your innocence, that would be a lot of improvement on this. Are there any questions?"

**MICHAELIS** "Are there any questions of the speaker? Okay, thank you sir. Is there anyone else wishing to speak on this item?"

**CHARLES PEASTER** "I live at 9453 North 135<sup>th</sup> Street West in Sedgwick County. I have been a resident in the County since 1979. After many, many hours with a task force, it looks like we have finally come up with a workable plan for not only nuisances but for the Zoning Code. The question on your salvage yard, I believe that part of the reason for that was because this County has mandated that we start recycling material by the year 2003 or they are going to increase the taxes. They are going to put a tax on us if we don't start recycling.

One of the things I brought up at one of the meetings was the fact that if I have a barrel out there and it has aluminum cans or plastic bottles or tin cans in it, that it could be considered a salvage yard, and that was the reason for the exemption in the County. If I fenced it, rather than having it in a building. The only thing that I don't like about this issue is the trailer. The reason for that is that I have a vehicle trailer that has to be licensed, and the way this reads, it is still not clear to me whether that would be in violation or not, even though it is on my property, and maybe the attorney for the County could answer that. Other than that, I think we finally came up with something that is workable for everybody that lives in the County, and I would like to commend the Legal Department and the County Commission on coming up with this. Hopefully you will pass this also and then they can put this in the Zoning Code. Thank you."

**GAROFALO** "Exactly where are you referring to on your item? Is it item (c) here in the middle of the second page? The definition there?"

**PEASTER** "I believe it is there on Page 12. Yes. The last page says 'trailers that are exempt from motor vehicle registration by the State of Kansas. If the vehicle carries over 2,000 pounds, including the weight of the trailer, it must be licensed with the State'."

**GAROFALO** "You are talking about the last page?"

**PEASTER** "Yes, sir."

**GAROFALO** "Do you have the same thing that we do?"

**PEASTER** "Yes, I do. It is what was laying here."

**GAROFALO** "So on the last page where it says 'trailers that are exempt...Item 12 (c)'?"

**PEASTER** "Right. It is saying that this can be permitted in the unoccupied if it is not registered. But any trailer that carries a gross weight of over 2,000 pounds including the trailer must be registered with the State of Kansas, according to the Highway Patrol. If it was a car trailer, which most of them with the weight of the car on there is going to exceed 2,000 pounds. If it goes up to 6,000, then you have to get a trailer license for up to 6,000; if it is over 6,000—it goes from 6,000 to 12,000—if it is over 12,000, it says 12 plus."

**MICHAELIS** "Are there any further questions? Thank you, sir. Is there anyone else to speak? Please come forward."

**GENE LAMAN** "I have lived in Sedgwick County for 48 years. Is there a provision in this code that protects those that might go to the hospital and have their car sitting out? If there a provision for those that might die, and in death would there be a time period for these cars to be set? Is there a provision for those people that might be called into military duty that might be gone for 6 months or a year, or maybe even 2 or 3 years? Is there a provision for those?"

When I was drafted into the army, my pay was cut by about 80%. Out of the 20% that I had left, I paid storage on my private stuff. When it came time for me to come home, I was extended for 4 months, or to the duration. This happened to be back when they put up the Berlin wall, not when they took it down. After I came home, I still had a 2-year active duty once a month, 2 weeks, a year that I had to perform, which took my vacation time. After that, I still had 2 more years of inactive reserve, which I had to maintain all of my army issue for. I would like to see some kind of provision to protect these people because when they leave, they have no idea where they are going or how long they are going to be gone. See, I am one of those people that carried the pack, the full army gear, for 20 miles or more with an M-16 hooked over my shoulder.

Bud Hentzen comes by my place, and he knows that there is an American flag that flies out there by my barn every day. That is kind of a reminder. I am kind of one of those that believes that I have a right to park my car in front of my garage and can be sure that it is there when I get ready to get in it, whether it is today or tomorrow, or next week. I kind of think that I earned that right after 6-1/2 years of service as a draftee. That is pretty much what I have to say. Does anybody have any questions?"

**MICHAELIS** "Any questions of the speaker? Thank you, sir. Is that something we can answer?"

**GOLTRY** "I have talked with Kurt Schroeder fairly extensively, and the way it is handled is that if you have a vehicle that is parked for an inordinate length of time and somebody calls in a complaint about that, they go to investigate and look at what the situation is because they look at the idea that when you go on vacation and you leave your car parked for a couple of weeks, that is considered to be a customary residential accessory use. So, when they go to investigate the complaint, they determine that because this is just a vacation or some such thing like that, it is a customary residential accessory use.

Now, after they evaluate the situation, if they find that it is something that is out of hand, something that is excessive, they will provide notice to them that they need to move the vehicle. Let's say that you lived next door to someone who went away and left their car parked for a year, you might feel a little differently about it at that point. They would look into those circumstances. But again, you would have notice provided before any action was taken, so there would be the opportunity to do something about the situation.

We have talked around about this issue a lot. It is a difficult issue to grapple with, to say the least, because we all want to be able to be flexible and be allowed to do what is a customary residential use and that is when you have gone on vacation for a couple of days, it is not a big problem. On the other hand, you don't want to be boxed in to where you have a neighbor who never moves anything from the front of their house. So that is kind of where we landed on it. We had a lot of serious discussions about whether there was an appropriate way to incorporate it, but feel that this case-by-case analysis on the customary accessory use is probably the better way to handle it. There is some discretion."

**MICHAELIS** "Is there anyone else to speak on this item? Seeing none, we will bring it back to the Commission."

**HENTZEN** "I would like to ask Mr. Blase a question about the man with the trailer. Does it have to be State authorized? Can he park his trailer in his driveway under what we have here today?"

**BLASE** "If the question is can he store it, and if we are talking about time greater than 72 hours, I don't think under this, he could. I don't think he could, in the County."

**HENTZEN** "So you don't think he could?"

**BLASE** "I do not."

**HENTZEN** "Do you think he should be able to?"

**BLASE** "I do the will of the Board of County Commissioners, so I will let them answer that question."

**HENTZEN** "I was at that meeting the other day and I don't think they addressed this part. A guy that has a trailer that happens to be big enough to have a state requirement on it, 72 hours is nothing. You might not use it in that time and he can't keep a trailer even out in the County, out under the fir trees or whatever?"

**WARREN** "Bud, I think a more important point is that we are not talking, necessarily about a big truck. We are talking about a trailer that might carry a big load. It might be a little trailer and they put a Bobcat or something on it. A Bobcat weighs 7,000 pounds, so you have to register that trailer for an over 2,000 pound load. It doesn't have to be a very big trailer—we are not necessarily talking about anything great big, we are talking about something that is going out on the highway and haul something.

I do agree with you that we probably ought to make a provision for doing that. The very word 'registered' is what gets us in trouble. You can register, for that matter, a trailer with less than 2,000 pounds. You can register a very small trailer, but you don't have to."

**GOLTRY** "There are also agricultural exemptions for trailers and they go up significantly higher in the rating of the vehicle. As I recall, off hand, it is around 16,000. Either 12,000 or 16,000. I would have to go through my notes from the Highway Patrol to verify. But in an agricultural area, it isn't as big of a problem because you already have a lot more latitude of not tagging your trailers."

**WARREN** "In an agricultural area or for agricultural use?"

**GOLTRY** "For agricultural use. Do you really want a semi-trailer in the back yard is what the question boils down to. Because this does allow the boat trailer to be in the back yard."

**WARREN** "What this man is saying, though, is that the exception is that I might have a little 12 foot trailer, not very big, but because it is registered to up to 12,000 pounds, all of a sudden I can't put it out here. We are not talking about an 18-wheeler."

**GOLTRY** "Well, it is exempt, whether you have registered it or not. We didn't say that it was registered, we said that it would be exempt from registration."

**WARREN** "I didn't read it that way, and I don't think the gentleman who stood up here did either."

**GOLTRY** "That are exempt from motor vehicle registration."

**WARREN** "Trailers that are exempt from motor vehicle registration....well, see, this wouldn't be, so all of a sudden, it becomes guilty. It is not exempt because I am going to carry something on it that weighs too much. Two-thousand is little bitty trailer that carries too much."

**GOLTRY** "Do you know what might be of benefit? That is to get the Highway Patrol....it is very complex. Perhaps if we have another meeting, we could ask the gentleman from the Highway Patrol who is involved with these trailers to meet with us and explain it because it is extremely complex.

Or alternatively, if you would like for me to, I can give you a little position paper that he helps develop that would outline for you what kinds of trailers we are talking about, to satisfy the trailer issue."

**WARREN** "I think it is important that we recognize that fellow had a point."

**MICHAELIS** "For the benefit of the Commission, we have until May 24 to act on this. It isn't as if we have to do it today. So if there are specific issues, and it sounds like this is one, we may want to do a little more work on that and then come back on it."

**GOLTRY** "And I should say on behalf of the MAPC Advance Plans Committee that the grappled with this issue and we did go over all of the information we got from the State Highway Patrol in one of the subcommittee meetings. That is where the determination was made to come forward with this as a recommendation."

**MICHAELIS** "Are there any other questions or comments?"

**GAROFALO** "The gentleman back there that was concerned in the County about leaving vehicles while they are on vacation or whatever, or military leave, does the County zoning person, the Inspector or whatever, do they have the discretion to deal with that?"

**BLASE** "Yes, certainly they have discretion. I can't say that they have a procedure that they follow per se, but they certainly have the discretion. Again, when we prosecute, if it gets to that level, it is in what we would term as a compliance court where we are seeking compliance. If it is a situation where somebody has simply gone on vacation, we have the discretion resting in the Code Enforcement officer, plus on up the line through prosecution. So those instances aren't going to be opened up and prosecuted."

**KROUT** "I understand that we have differentiated between the City and County. In the County, you are allowed to park or store operable vehicles in the front yard. In the City, we have the policy in the Zoning Code that limits front yard parking."

**BLASE** "Did you say you were able to store operable vehicles in the County?"

**KROUT** "That is my understanding. If that isn't the intent, that is another good reason for us to revisit this."

**BLASE** "I think that need to be looked at again, but I don't know that that is the intent."

**KROUT** "Donna, I don't know if you ever did get in touch with Glen (Wiltse) about this, because I think the County Code Enforcement has kind of wavered on exactly what it is they want to see in the Code."

**GOLTRY** "Because one of the things that is interesting to pick up the difference between the City and the County is that the storage of these items is restricted in the City to be not inside the required front yard or the required street side yard. We don't have a similar provision in the County. It is something that I think merits thinking about because do you really want them all stored in the front yards?"

**HENTZEN** "Mr. Chair, I think we should defer this and ask staff to look into the military and trailer questions be looked into and get back to us."

**MICHAELIS** "Why don't you put that into a motion?"

**MOTION:** That the item be deferred to the May 24 meeting.

**HENTZEN** moved, **GAROFALO** seconded the motion, and it carried unanimously (10-0).

**MICHAELIS** "I would like to add that maybe we not limit it to just those two things because I think there are some other things that were presented that should be looked at as well."

**WARREN** "Mr. Chair, I just hope that we get a full and complete package of everything that has been agreed to up until now then."

**GOLTRY** "Okay."

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**2.        Approval of the minutes for March 8, 2001.**

**GAROFALO** "I have a couple of relatively minor changes. I will give them to the secretary."

**MICHAELIS** "If anyone else has any corrections, please give them to the secretary."

**MOTION:** That the minutes for March 8, 2001 be approved as amended.

**GAROFALO** moved, **WARREN** seconded the motion, and it carried unanimously (9-0).

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**3.        Consideration of Subdivision Committee Recommendations**

**MICHAELIS** "We need to pull Items 3/1 and 3/8 and take them individually. Are there any other ones that anybody else needs pulled? Is there anyone in the audience that wishes to speak on Items 3/2 through 3/7? Okay, I will entertain a motion to approve Items 3/2 through 3/7."

Subdivision Items 3/2, 3/3, 3/4, 3/5, 3/6, and 3/7 were approved subject to the subdivision recommendations. **LOPEZ** moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

**2.        SUB2000-105 – One-step final plat of a replat of part of K.T. Wiedemann Business Park, located on the south side of Kellogg, west of Greenwich.**

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. Since drainage is directed to the Kansas Turnpike, City Engineering has required a letter from the Turnpike Authority indicating their agreement to accept such drainage.
- D. Complete access control shall be platted along the Kansas Turnpike.
- E. The applicant shall guarantee the paving of Wiedemann and Chateau to the commercial street standard extending north to Kellogg Drive.
- F. On the final plat tracing, the MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- G. All owners that are denoted in the platting binder have not been included as signatories to the plat. These owners need to be added to the final tracing or a revised platting binder needs to be submitted indicating that the site's ownership is only in the party now shown on the final plat.



- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The applicant shall obtain an administrative adjustment to the CUP, reflecting new lot sizes and elimination of decel lane requirement.
- J. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-88) and its special conditions for development on this property.
- K. A 10-ft utility easement is located along the north line of Lot 3 on the CUP, but not indicated on the plat.
- L. The year "2000" needs to be revised to "2001".
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**3/3.      SUB2001-20 – Final Plat of RIDGE PORT NORTH 4<sup>TH</sup> ADDITION, located on the south side of 37<sup>th</sup> street North, east of Ridge Road.**

- A. The applicant shall guarantee the extension of City water and sanitary sewer.
- B. This plat will be subject to approval of the associated zone change (ZON 2001-05) and any related conditions of such a zone change. Prior to this plat being heard by the MAPC, a zone change shall have been submitted and approved.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.

- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. For those reserves being platted for sidewalks or drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the sidewalks or drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. City Fire Department needs to comment on the plat's street names. The street names are approved.
- H. The applicant shall guarantee the paving of the proposed interior streets. This guarantee shall include the installation of a temporary cul-de-sac for Lakeway. The guarantee shall also include sidewalks on one side of the loop street (34<sup>th</sup> St. North, Lakeway, Brookview and Ridge Port).
- I. County Engineering shall comment on the need for improvements to perimeter streets. The Subdivision Regulations requires paved access of perimeter streets between the nearest paved segment and the entrance to the subdivision. County Engineering has required a guarantee for the paving of 37th Street North to Lot 1, Block D.
- J. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- L. It is recommended that Reserve B be extended to 34th North Court and the loop street by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition. The applicant has platted pedestrian access easements on the final plat between Lots 25 and 26 and between Lots 15 and 16.
- M. The bench mark description needs to be corrected.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE requests additional easements.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**3/4.     SUB2001-25 – Final Plat of MEL HAMBELTON ADDITION, located on the southeast corner of 119<sup>th</sup> Street West and Kellogg.**

- A. The applicant shall guarantee the extension of sanitary sewer and City water services.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. A letter from KDOT is required regarding their acceptance of drainage directed onto US-54.
- D. For lots adjacent to railroad tracks, the Subdivision Regulations requires the dedication of 150 feet of complete access control along the street frontage. City Engineering has approved three access openings. A cross-lot circulation agreement is required to assure internal access between the lots. The southernmost opening is approved contingent upon the abandonment of the railroad. Prior to its abandonment, 150 feet of complete access control is required from the railroad tracks.
- E. Traffic Engineering and KDOT need to comment on the need for additional right-of-way for the future Kellogg freeway/interchange, in addition to the medial opening from Kellogg Drive. Traffic Engineering has required complete access control from Kellogg Drive to U.S. 54 Highway.
- F. County Engineering requests petitions for left and right turn lane improvements to 119th St. West.
- G. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. The joint access easement in Lot 2 needs to be labeled as 30 feet.
- I. The bench mark needs a better described location.
- J. The easement in Misc. Bk. 654, Pg. 229 needs to be located on Lots 1 and 5.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- N. On the final plat tracing, the MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**3/5.     DED2001-08** – Dedication of Street Right-of-way from Scott and Sheila Hoskinson, for property located north of 53<sup>rd</sup> Street North, east of Ridge Road.

OWNER/APPLICANT:   Scott and Sheila Hoskinson, 2776 N. Northshore Court, Wichita, KS 67205

LEGAL DESCRIPTION:       The north 30 feet of of the south 60 feet of the east 110 feet of the west 1/2 of the SW 1/4, Sec. 15, T26S, R1W.

PURPOSE OF DEDICATION: This Dedication is a requirement of CON 2000-12, and is being submitted to dedicate 30 feet of street right-of-way for 53<sup>rd</sup> Street North.

Planning Staff recommends that the Dedication be accepted.

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**3/6.     DED2001-09** – Dedication of Street right-of-way from Scott and Sheila Hoskinson, for property located north of 53<sup>rd</sup> Street North, east of Ridge Road.

OWNER/APPLICANT:   Scott and Sheila Hoskinson, 2776 N. Northshore Court, Wichita, KS 67205

LEGAL DESCRIPTION:       The east 20 feet of the west 60 feet of the SW 1/4 of Sec. 15, 26S, R1W, except the south 735 feet thereof.

PURPOSE OF DEDICATION: This Dedication is a requirement of CON 2000-12, and is being submitted to dedicate 20 feet of street right-of-way along Ridge Road.

Planning Staff recommends that the Dedication be accepted.

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- 3/7.      DED2001-10** – Dedication of street right-of-way from James and Dianna Wirths, for property located south of 53<sup>rd</sup> Street North, east of Ridge Road.

OWNER/APPLICANT:    James and Dianna Wirths, #9 Breeze Court, Valley Center, KS 67147

LEGAL DESCRIPTION:    The south 15 feet of the north 60 feet of the following described tract:

Beginning at a point on the north line of the NW 1/4 of Sec. 22, Twp. 26S, R1W, of the 6th P.M., Sedgwick County, Kansas, said point being 776 feet west of the northeast corner of said NW 1/4; thence south parallel to the east line of said NW 1/4 on an assumed bearing of S 02° 42' 21", E, a distance of 782.05 feet; thence north 89° 59' 54" E, parallel to the north line of said NW 1/4, a distance of 297.60 feet; thence S 02° 41' 41" E, 791.29 feet; thence S 88° 51' 17" W, 839.09 feet to a point on the west line of the east 1/2 of said NW 1/4; thence N 02° 27' 09" W on the west line of the east 1/2 of said NW 1/4, a distance of 929.79 feet; thence north 89° 59' 54" E, parallel to the north line of said NW 1/4, a distance of 330 feet; thence N 02° 27' 09" W, parallel to the west line of the east 1/2 of said NW 1/4 a distance of 660 feet to a point on the north line of said NW 1/4; thence N 89° 59' 54" E, 205.23 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of CON 2000-13, and is being submitted to provide 15 feet of street right-of-way along 53<sup>rd</sup> Street North.

Planning Staff recommends that the Dedication be accepted.

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Item taken out of order:

- 3/1.      SUB2001-28** – One-step final plat of FLAT CREEK ADDITION, located on the east side of 119<sup>th</sup> Street West, north side of Pawnee.
- A.    The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
  - B.    Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-6, Single-Family Residential and allow for the lot sizes being platted.
  - C.    If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
  - D.    County/City Engineering needs to comment on the status of the applicant's drainage plan. County/City Engineering have approved the drainage plan. City Engineering has required a drainage guarantee.
  - E.    County Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
  - F.    The plat proposes complete access control along the plat's frontage to Pawnee and 119th St. West. The final plat shall reference the access controls in the plat's text.
  - G.    The applicant shall guarantee the installation of the proposed streets. The guarantee shall also provide for sidewalks on one side of the through street and loop streets (64-ft right-of-way).
  - H.    Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
  - I.    For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
  - J.    It appears that the width of the through street and loop streets are measured as 64 feet although incorrectly

labeled as 70 feet.

- K. Lots 7, 8 and 11, Block F, exceed the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- L. The applicant proposes to include a note on the plat allowing for 5-ft side yard setbacks, which represents an adjustment of the Zoning Code standard of 6 feet for the SF-6, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- M. The County/City Fire Department needs to comment on the plat's street names. Revised street names are required.
- N. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- O. The applicant needs to verify the location of the pipeline easement indicated in the platting binder. If this easement is on this site, it should either be shown or verification provided that it is off-site or has been released.
- P. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is only in the party now shown on the final plat.
- Q. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**NEIL STRAHL**, Planning staff "This is the Flat Creek Addition, which was a previously approved last month. It is back before you today because the applicant has proposed a revised plat, which has warranted a new condition; that is Item 'L'.

On the staff report, the applicant has proposed to adjust the side yard setbacks from the required 6 feet to 5 feet and proposes to place a note on the plat to that effect. The Subdivision regulations do allow for the zoning setback provisions to be modified by the plat upon the approval of the Planning Commission."

**MICHAELIS** "Are there any questions of staff? May we hear from the applicant, please?"

**RUSS EWY** "I am with the Baughman Company, agent for the applicant. This is a pretty straightforward request that we are proposing this afternoon. I would be more than happy to answer any questions that the Commission may have."

**MICHAELIS** "Are there any questions of the applicant? Thank you, Mr. Ewy. Is there anyone in the audience wishing to speak in favor or in opposition to this item? Seeing none, I will bring it back to the Commission."

**PLATT** "On Item 'L' do I understand that on the side yard setbacks are being being adjusted to 25 feet?"

**STRAHL** "That should say 6 feet."

**PLATT** "Oh. Okay. That changes things."

**MOTION:** That the Planning Commission recommend to the governing body that the request be approved.

**PLATT** moved, **HENTZEN** seconded the motion, and it carried unanimously (9-0).

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**3/8.     S/D 77-23 - WHISTLING WALK ESTATES 2<sup>ND</sup> ADDITION.**

The owner of Lot 1 in the above-captioned subdivision (recorded in 1977) proposes a boundary shift between Lots 1 and 2 (see attachment) in order to acquire an additional .631 acres. This is needed due to the installation by KGE of equipment servicing his property inadvertently located outside of an existing easement.

The result of the boundary shift would create a lot size of 4.42 acres for Lot 2. The Subdivision Regulation require a minimum lot area of 4.5 acres for lots served by sewage lagoons. The Health Department has approved the request.

A modification from the Planning Commission is needed to approve a reduction of lot size for Lot 2.

**NEIL STRAHL**, Planning staff, "This item includes a site plan, in your packet. This is with regards to a plat that was recorded back in 1977, the Whistling Walk Estates 2<sup>nd</sup> Addition.

What we have here is the owner of Lot 1 is proposing a boundary shift between his lot and the lot to the south, Lot 2. That is needed due to KG&E's installation of equipment that was inadvertently placed outside of the existing easement. Typically, boundary shifts do not have to be reviewed by staff or the Planning Commission, but in this case, the result of the boundary shift would result in a sub-standard lot. Lot 2 would be 4.42 acres after the boundary shift and our subdivision regulations require 4.5 acres for lots served by sewage lagoons, and this lot is served by a lagoon.

The Health Department has informed me that they are okay with this request, so what we need is a modification from the Subdivision regulations by the Planning Commission so the applicant can proceed with his boundary shift."

**MICHAELIS** "Are there any questions of staff?"

**WARNER** "Can he do this by an easement rather than a boundary shift?"

**STRAHL** "He still needs to do a boundary shift. We will probably have to dedicate a new easement also for the equipment."

**MICHAELIS** "Are there any other questions of staff? May we hear from the applicant, please?"

**STRAHL** "He must not be here."

**MICHAELIS** "I will bring it back to the Commission."

**MOTION:** That the Planning Commission recommend to the governing body

that the request be approved, subject to staff comments, and that a waiver be granted for the Lot 2 for the reduced size.

**WARREN** moved, **GAROFALO** seconded the motion, and it carried unanimously (9-0).

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**JERRY MICHAELIS**, Acting Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

I would like to remind the members of the Planning Commission that our bylaws require you to disclose any ex-parte contacts that you may have had regarding any of the applications on today's agenda. So I would ask you to please remember to disclose the nature of any such contacts you have had before we open the hearing on each case, and what if any impact that information may have on your opinion of the request.

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**MICHAELIS** "Is there anyone here that wishes to speak on Items 4/1 through 4/5? Okay, I will entertain a motion."

**LOPEZ** moved, **BLAKE** seconded the motion, and it carried unanimously (9-0).

**4/1. VAC20001-00011** – Request to vacate alley right-of-ways, located in the alley between Waco and Fairview and North Waco and 21<sup>st</sup> Streets.

**OWNER/APPLICANT:** Kansas Public Telecommunications Service Inc.

**AGENT:** David McClintock

**LEGAL DESCRIPTION:** That alley right-of-way lying between Waco Avenue and Fairview Avenue and between 21<sup>st</sup> Street North and 22<sup>nd</sup> Street North being more particularly described as lying between the following described lots: Lots 1 through 23 odd inclusive on Jewett Avenue now Waco Avenue and Lots 2 through 24 even inclusive on Fairview Avenue all within Judson's Addition to Wichita, Kansas, AND Lots 535 through 557 odd inclusive on Jewett Avenue now Waco Avenue and Lots 536 through 558 even inclusive on Fairview Avenue all within Rosenthal's Subdivision of Meyers and Snyders Out lots to Wichita, Kansas.

**LOCATION:** Alley between Waco & Fairview and N Waco and 21<sup>st</sup> Street North.



REASON FOR REQUEST: Building television studios of KPTS.

CURRENT ZONING: Multiple zoning along the length of the alley. LC Limited Commercial along the south, southeast and southwest sides. B Multifamily along the east and west sides, in the middle section of the alley. TF-3 Duplex zoning along the north, northeast and northwest sides.

The applicant is requesting consideration to vacate the alley between 21<sup>st</sup> St N – 22<sup>nd</sup> St N – N Waco Av – N Fairview Av. The applicant proposes to build a television studio and parking lots. The proposed development will go over the alley and cover approximately the southern half of the alley/ block. Proposed access (per concept plan) to the parking lots will be from Waco & Fairview Avenues. Currently there are single-family homes in the area where the proposed development will be.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 29, 2001, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described utility easement, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the alley right-of-way described in the petition should be approved subject to the following conditions:
1. Abandon sewer line that is located under the purposed location (per concept plan) of building and provide guarantee that this section of the sewer line is abandoned.
  2. Retain portion of remaining sewer and obtain 20-ft utility easement brining the easement up to current standards.
  3. Provide new manhole at the junction of the abandoned sewer line and the remaining active sewer line.
  4. Provide temporary easement to cover sewer line until it is abandoned.
  5. Maintain utility easement until all utilities are relocated
  6. Provide new utility easement for relocated utilities.
  7. Provide covenant tying the lots to be used in the development together as one property.
  8. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  9. All improvements shall be done according to City Standards.
  10. The applicant shall dedicate an access easement to Waco and/or Fairview, for the proposed parking lots.
  11. The applicant shall guarantee the closure of the remaining section of alley or retain it.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Abandon sewer line that is located under the purposed location (per concept plan) of building and provide guarantee that this section of the sewer line is abandoned.
2. Retain portion of remaining sewer and obtain 20-ft utility easement brining the easement up to

current standards.

3. Provide new manhole at the junction of the abandoned sewer line and the remaining active sewer line.
4. Provide temporary easement to cover sewer line until it is abandoned.
5. Maintain utility easement until all utilities are relocated
6. Provide new utility easement for relocated utilities.
7. Provide covenant tying the lots to be used in the development together as one property.
8. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
9. All improvements shall be done according to City Standards.
10. The applicant shall dedicate an access easement to Waco and/or Fairview, for the proposed parking lots.
11. The applicant shall guarantee the closure of the remaining section of alley or retain it.

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**4/2. VAC20001-00012** - Request to vacate utility easements and fire lanes, located on the northeast corner of 37<sup>th</sup> Street North and North Seneca, Lot 1, Sherwood Village Addition.

OWNER/APPLICANT:	George D. Blum
LEGAL DESCRIPTION:	All public utility easements & fire lane easements as shown in Lot 1, Sherwood Village Addition, Sedgwick County, Kansas.
LOCATION:	Generally located on the northeast corner of 37 <sup>th</sup> St N & N Seneca, Lot 1, Sherwood Village Addition.
REASON FOR REQUEST:	Plat reflects proposed multifamily development; applicant proposes to sell and develop for church.
CURRENT ZONING:	Subject property is zoned MF-18 Multi-Family. Properties to the north (across IH 235) are zoned SF-6 Single Family Residential. Properties to the east (across the "Big Ditch") are zoned SF-6 Single Family Residential and TF-3 Duplex. The properties to the south (across the "Big Ditch") are zoned GC General Commercial and SF-6 Single Family Residential. The properties to the west are zoned TF-3 Duplex and MF-29 Multifamily.

The applicant is requesting consideration to vacate utility easements and fire lanes in Lot 1, Sherwood Village Addition. The property is undeveloped. The applicant proposes to sell the property and develop it as a church. The current plat (approved by WCC, 02-08-83) was for multifamily development, showing multiple pad sites with abutting utility easements and fire lanes. The proposed development of a church would encroach on the platted utility easements and fire lanes.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 29, 2001, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described utility easement, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the utility easements and fire lanes described in the petition should be approved subject to the following conditions:
1. KG&E needs to retain 10-ft KG&E easement as noted on plat, per reference film 45, page 539, generally located as running parallel to IH 235.
  2. When developing must use current setbacks, per zoning.
  3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  4. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. KG&E needs to retain 10-ft KG&E easement as noted on plat, per reference film 45, page 539, generally located as running parallel to IH 235.
2. When developing must use current setbacks, per zoning.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.

5. **Requested boundary alterations to County Fire District #1**

**DAVE BARBER**, Planning staff, "The Sedgwick County Board of Commissioners has received petitions from owners of 14 properties requesting that their properties be included within the boundaries of County Fire District #1. These properties are located on the above map; you can see the dark dots on this map. For the most part, they are fairly small tracts of land, and as you can see, they range in size from approximately 3 acres up to 155 acres.

All of these properties currently fall within the Colwich Fire District and they are located within 3 miles of the City of Colwich. Under a state statute, when a fire district boundary alteration is proposed within 3 miles of a city with adopted subdivision regulations, a 3/4 vote of the County Board of Commissioners is required to approve the requested boundary alteration, and that is the situation here. Also, state statute requires that the County Board of Commissioners receive testimony from the Planning Commission having jurisdiction over the affected area regarding any incompatibilities between the proposed expansion of the district and the adopted land use plan or comprehensive plan for these affected areas. The intent of this is to evaluate whether the proposed boundary alteration would result in any inconsistencies with the overall growth plan—in this case, in the City of Colwich or of Wichita/Sedgwick County.

As you are probably aware, you dealt with one of these requests back several months ago. We had two properties in that situation, and here we have 14. This appears to be a trend in this particular situation, and I think the reason for that is that the Colwich Fire District is a volunteer fire district and has a different level of service than would be otherwise provided with the Sedgwick County Fire District No. 1.

As you may recall, the County has fire station No. 33 in the middle of Union township, approximately 1 mile east of the Colwich volunteer fire station. The county does have a mutual aid agreement with the Colwich Fire Department that if called upon, they will provide fire support assistance to them for a fee, which is different than the first-responder agreement that Sedgwick County has with the City of Wichita.

In any event, the property owners requesting this petition would be paying a significant increase in tax levies, if they are successful in this request. There is no reason to believe that the County Board of Commissioners will deny this. They have approved others in the past, and this appears to be part of a pattern in this particular area where people want more professional type of fire service and are prepared to pay the cost accordingly for that service.

So we have looked at this in terms of implications with the Comprehensive Plan, with the growth plans for the City of Colwich, and we find that including these properties in the County Fire District No. 1 will in no way compromise the future growth and expansion opportunities for Colwich, and in fact appear to be consistent with the Wichita/Sedgwick County Comprehensive Plan. The recommendation is that the Planning Commission make a finding that adjusting the boundaries of County Fire District #1 to accommodate these petitions would be

compatible with these Comprehensive Plans and would in no way compromise logical, orderly, efficient growth and expansion in and around the City of Colwich. That is my presentation."

**MICHAELIS** "Are there any questions?"

**HENTZEN** "Dave, do you know how many other small cities in this county have volunteer fire people? Are there other County Fire Districts?"

**BARBER** "No, there are other fire districts, but I don't know how many of them are volunteer. There are a number of fire districts within Sedgwick County, and I suspect more than this one is on a volunteer basis."

**GAROFALO** "Are most of these essentially residences or homes, people's homes?"

**BARBER** "Yes, they are. Most of them are on smaller tracts of land, but there are a couple of farm parcels as well."

**MICHAELIS** "Are there any further questions of staff?"

**LOPEZ** "County Fire District No. 1 is bounded by the dark area on this map, or is it bounded by 85<sup>th</sup> Street and 21<sup>st</sup> Street on the south and Ridge?"

**BARBER** "It is bounded on the southeast with the Wichita Fire District; it encompasses the Colwich Fire District, which is all of Union township, with the exception of the areas that are excluded, which is the light blue, and then it abuts up against the Mt. Hope Fire District. So it is a large fire district that goes all the way around Wichita and east, west, north and south."

**LOPEZ** "District No. 1 goes all the way around Wichita?"

**BARBER** "Yes. This is just one of their fire stations that they have—Station No. 33."

**LOPEZ** "What is drawn here as the boundary isn't the actual end of it?"

**BARBER** "No, it is just a small area of their entire district."

**WARNER** "Does the volunteer Fire Department of Colwich have an opportunity to comment on this and can they say no, we don't want to lose this?"

**BARBER** "I think their opportunity is at the public board hearing on June 6 where if they have concern with the pattern that is developing here, I suppose they could make a presentation to the County Board of Commissioners. But I think that is their only formal opportunity."

**MICHAELIS** "Mr. Barber, is this likely to be anything that would be a source of confusion as far as when a call comes in, who goes to it? I mean does everyone have to sit around and look at a map to see who goes where?"

**BARBER** "I think the property owners know which fire district they are in, and as long as the fire district itself is maintaining a good record, they will know who in this area is in and who is out. We have to assume that they are monitoring this and that they can handle this kind of fragmented situation in terms of delivery of service."

**MICHAELIS** "So this is something that could go on and then next week it could come back. In other words, this could go on forever."

**BARBER** "I think so. I think over time, we will see less and less of the area covered by the volunteer fire service."

**WARREN** "The last time this came up, I think there was testimony given at that time that the Colwich Fire Department didn't function at all as far as responding as a fire department. I guess the question I have is are we talking about having the Colwich volunteer system to surrender that whole district? Would that be just by agreement between them and the county?"

**BARBER** "I believe so."

**WARREN** "Is it likely that we will see that district maybe being surrendered, maybe, to the county?"

**BARBER** "I think at some point in time. It may be that the Colwich Volunteer Fire Service will just provide service to the city. But even that, at some point in time, even the city might decide."

**KROUT** "I think that was part of the strategy for locating that station where it is."

**BARBER** "The people are willing to pay for that service, and I think there is not a problem with that. It's a lot to pay."

**MICHAELIS** "Are there any further questions of Mr. Barber? Okay. We just need a motion."

**MOTION:** That the Metropolitan Area Planning Commission submit the findings to the Sedgwick County Board of County Commissioners regarding these current petitions to adjust the boundaries of County Fire District #1.

**GAROFALO** moved, **WARNER** seconded the motion, and it carried unanimously (9-0).

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**ZONING:**

- 6a. **Case No. ZON2001-00019** – Ritchie Investment Company, c/o Rob Ramseyer, and Ritchie Associates, Inc. (owners); Baughman Company c/o Terry Smythe (agent) request zone change from "LC" Limited Commercial; "SF-6" Single-Family Residential; and "SF-20" Single-Family Residential to "LC" Limited Commercial; and
- 6b. **Case No. CUP2001-00013 (DP-250) Northridge Plaza Community Unit Plan Amendment #1 (f/k/a Starwest CUP) Amendment #1** – Ritchie Investment Company, c/o Rob Ramseyer, and Ritchie Associates, Inc. (owners); Baughman Company c/o Terry Smythe (agent) request amendment and expansion of the Community Unit Plan.

**MICHAELIS** "There has been a request to defer this case. I will entertain a motion to do so."

**MOTION:** That the item be deferred for 3 weeks to the next meeting.

**LOPEZ** moved, **WARNER** seconded the motion, and it carried unanimously (9-0).

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7. **Case No. ZON2001-00016** – Patricia G. Wilson-Rank (Owner); Wildcat Developers Inc. c/o Ron Meyer (Contract Purchaser/Applicant); PEC, PA c/o Gary Wiley (Agent) request zone change from "RR" Rural Residential to "SF-20" Single-Family Residential on property described as:

That part of the South Half of the Southwest Quarter of Section 34, Township 28, South, Range 1 East of the Sixth Principal Meridian, lying South of the Right-of-Way of the Wichita-Valley Center Floodway as condemned in Case A-29459 in District Court of Sedgwick County, Kansas; Except road right-of-way on the West and the South. Generally located on the northeast corner of 71<sup>st</sup> Street South and Hydraulic.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant requests a zone change from "RR" Rural Residential to "SF-20" Single-Family Residential on a 17.4 acre unplatted tract located at the northeast corner of 71<sup>st</sup> Street South and Hydraulic. The applicant proposes to develop the site with single-family residences on approximately ½ acre lots. The applicant has submitted a copy of the preliminary plat (attached). The property is located within platting jurisdiction of the City of Haysville.

The surrounding area is on the fringe of a developing suburban area with much of the land in the area still used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is being developed by the applicant for single-family residences on approximately ½ acre lots. The property south of the site is zoned "RR" Rural Residential and is used for agriculture. The Wichita-Valley Center Floodway (the Big Ditch) is located north and east of the site. Across the Big Ditch is property recently annexed by the City of Wichita that is developed primarily with manufactured homes on large lots.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: R.O.W. Wichita-Valley Center Floodway  
SOUTH: "RR" Agriculture  
EAST: R.O.W. Wichita-Valley Center Floodway  
WEST: "SF-20" Vacant, developing with single-family residences

**PUBLIC SERVICES:** The site has access to Hydraulic, a two-lane section line road, and 71<sup>st</sup> Street South, an unimproved section line road. Traffic volumes for Hydraulic were approximately 3,900 vehicles per day in 1997 and are projected to increase to approximately 6,200 vehicles per day by the 2030 Transportation Plan. Traffic volumes for 71<sup>st</sup> Street South along the frontage of the subject property are not available, but they are likely quite low since 71<sup>st</sup> Street South does not cross the Big Ditch or the Arkansas River to the east. Were a crossing of these two waterways constructed in the future to connect Haysville and Derby, traffic volumes likely would be in the 5,000 to 10,000 vehicle per day range. Public water service from the City of Haysville is available to be extended to the site. On-site sewer service will be provided by septic systems. The applicant indicates that the internal street will be asphalt mat.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural bases uses that are no more offensive than agricultural uses, and large lot subdivisions with provisions for future water and sewer service. The proposed large lot subdivision conforms to the Land Use Guide.

Planning staff has requested a copy of the Haysville Comprehensive Plan on several occasions in the past; however, a copy has not been provided. Therefore, a determination as to the conformance of the requested zone change to the Haysville Comprehensive Plan had not been made at the time this report was prepared.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of a developing suburban area with much of the land in the area still used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is being developed by the applicant for single-family residences on approximately ½ acre lots. The property south of the site is zoned "RR" Rural Residential and is used for agriculture. The Wichita-Valley Center Floodway (the Big Ditch) is located north and east of the site. Across the Big Ditch is property recently annexed by the City of Wichita that is developed primarily with manufactured homes on large lots.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which accommodates very large lot, single-family residential development in areas where a full range of municipal services are not likely to be available in the near future. The "SF-20" Single-Family district requested by the applicant is intended for application in areas where some public services are available and where soils are capable of accommodating septic systems. The "SF-20" district is a more suitable zoning district for the subject property given the ability of the City of Haysville to provide public water to the site and the ability of the soils to accommodate septic systems.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Nearby property is either screened from the site by a major barrier (the Big Ditch), under development with the same use proposed for the subject property, or used for agriculture. No detrimental affects on nearby property from the proposed single-family residential development are anticipated.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural bases uses that are no more offensive than agricultural uses, and large lot subdivisions with provisions for future water and sewer service. The proposed large lot subdivision conforms to the Land Use Guide.

Planning staff has requested a copy of the Haysville Comprehensive Plan on several occasions in the past; however, a copy has not been provided. Therefore, a determination as to the conformance of the requested zone change to the Haysville Comprehensive Plan had not been made at the time this report was prepared.

5. Impact of the proposed development on community facilities: Community facilities are adequate to serve single-family residential development on approximately ½ acre lots.

**KNEBEL** "This applicant has proposed to develop the site with a suburban subdivision. This particular property is located within the platting jurisdiction of the City of Haysville. The Haysville Planning Commission did review this zoning change request and recommended it for approval unanimously. Right now, the area is mostly agricultural. Over in the areas where there are trees, there are some suburban large-lot residential development that kind of runs along the interstate. That is the nearest current residential properties. There is a development right across the street to the west that is advertised as a similar subdivision to the one that is proposed. It is owned and being developed by the applicant of this zone change request. It is right across the street to the west.

The site would be provided public water service by the City of Haysville. On-site sewer service would be accomplished through septic systems. The applicant indicates that the internal street would be paved with asphalt. The Land Use Guide indicates that this area is appropriate for rural development, which supports large lot subdivisions with provisions for future water and sewer service. The Haysville Land Use Guide indicates that the property is appropriate for commercial development.

The Planning staff is recommending that the zone change request be approved, subject to platting within 1 year. These recommendations are based on the findings on Pages 3 and 4."

**MICHAELIS** "Are there any questions of staff? May we hear from the applicant, please?"

**GARY WILEY** "Mr. Chair, Commissioners, I am here on behalf of the contract purchaser. We are in complete agreement with the staff comments of platting. I would be happy to answer any questions."

**WARREN** "Have you provided in this, or will provisions be made on the final plat for easements so that when the sewer does come in here there won't be any problems?"

**WILEY** "Yes."

**WARREN** "So you will have urban-type easements?"

**WILEY** "Yes."

**GAROFALO** "Just a simple question. I counted 22 lots, is that right?"

**WILEY** "Yes. The lots are 20,000 square foot plus."

**MICHAELIS** "Are there any further questions of the applicant? Thank you, sir. Is there anyone in the audience wishing to speak in favor or in opposition to this item? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of a developing suburban area with much of the land in the area still used for agriculture. The property west of the site is zoned "SF-20" Single-Family Residential and is being developed by the applicant for single-family residences on approximately ½ acre lots. The property south of the site is zoned "RR" Rural Residential and is used for agriculture. The Wichita-Valley Center Floodway (the Big Ditch) is located north and east of the site. Across the Big Ditch is property recently annexed by the City of Wichita that is developed primarily with manufactured homes on large lots. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which accommodates very large lot, single-family residential development in areas where a full range of municipal services are not likely to be available in the near future. The "SF-20" Single-Family district requested by the applicant is intended for application in areas where some public services are available and where soils are capable of accommodating septic systems. The "SF-20" district is a more suitable zoning district for the subject property given the ability of the City of Haysville to provide public water to the site and the ability of the soils to accommodate septic systems. Extent to which removal of the restrictions will detrimentally affect nearby property: Nearby property is either screened from the site by a major barrier (the Big Ditch), under development with the same use proposed for the subject property, or used for agriculture. No detrimental affects on nearby property from the proposed single-family residential development are anticipated. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate

for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural bases uses that are no more offensive than agricultural uses, and large lot subdivisions with provisions for future water and sewer service. The proposed large lot subdivision conforms to the Land Use Guide. Planning staff has requested a copy of the Haysville Comprehensive Plan on several occasions in the past; however, a copy has not been provided. Therefore, a determination as to the conformance of the requested zone change to the Haysville Comprehensive Plan had not been made at the time this report was prepared. Impact of the proposed development on community facilities: Community facilities are adequate to serve single-family residential development on approximately ½ acre lots.) I move that we recommend to the governing body that the request be approved, subject to platting within 1 year.

**GAROFALO** moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

8. **Case No. ZON2001-00015** – Walter B. and Angeline M. Richardson; Ronald D. and Pamela K. Lamar; Gregory L. Guerrero; Miguel E. and Maria I. Hernandez; and KPTS, Inc. c/o Dave McClintock (Owners/Applicants) request zone change from "B" Multi-Family Residential to "GO" General Office on property described as:

Lot 535 and the South 9 feet of Lot 537, on Jewett, now Waco, Rosenthal's Subdivision of Meyers & Snyders Out-Lots to Wichita, Sedgwick County, Kansas

AND

Lots 1,3,5,7,9 & 11, on Jewett, now Waco, and Lots 2,4,6,8,10 & 12, on Fairview, Judgson's Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of 21<sup>st</sup> Street North between Waco and Fairview.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant requests a zone change from "B" Multi-Family Residential to "GO" General Office on a 1 acre platted tract located north of 21<sup>st</sup> Street North between Waco and Fairview. The applicant requests the zone change to allow for a northward expansion the existing KPTS broadcast studio that is located immediately south of the subject property. The expansion of the broadcast studio will involve the removal of existing residential structures and the conversion of the existing land use from residential to office use. A broadcast studio is first permitted in the "GO" General Office district.

The surrounding area is characterized by a mixture of uses in the middle of the Midtown North neighborhood with commercial uses along 21<sup>st</sup> Street and residential uses along both sides of Waco and Fairview north of the 21<sup>st</sup> Street commercial uses. The properties immediately north of the subject property are zoned "TF-3" Two Family Residential and are developed with residential structures. The properties immediately south of the subject property are zoned "LC" Limited Commercial and are developed with a broadcast studio, a parking area, and two residential structures. The properties east of the subject property across Fairview and west of the subject property across Waco are zoned "B" Multi-Family Residential and are developed with residential structures.

**CASE HISTORY:** The platted lots within the subject property are separated by a north-south alley. The applicant has requested the vacation of this alley to allow development of the broadcast studio across the alley's current location. This vacation request (VAC2001-00011) is scheduled to be heard by the MAPC at the same hearing as the zone change request.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" Residential  
SOUTH: "LC" Broadcast studio, parking area, residential  
EAST: "B" Residential  
WEST: "B" Residential

**PUBLIC SERVICES:** The site will have access to 21<sup>st</sup> Street North through the existing KPTS broadcast studio property. Traffic volumes along 21<sup>st</sup> Street North are approximately 16,600 vehicles per day. The 2030 Transportation Plan projects traffic volumes on 21<sup>st</sup> Street North to increase to approximately 22,000 vehicles per



day. The City's Capital Improvement Program contains a project scheduled for completion in 2006 to repave 21<sup>st</sup> Street North from Hood to Broadway and to provide turn lanes where warranted. Public water and sewer service are available to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The proposed Midtown North Neighborhood Plan also identifies this area as appropriate for commercial development. The proposed broadcast studio is compatible with the commercial land use designation.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses in the middle of the Midtown North neighborhood with commercial uses along 21<sup>st</sup> Street and residential uses along both sides of Waco and Fairview north of the 21<sup>st</sup> Street commercial uses. The properties immediately north of the subject property are zoned "TF-3" Two Family Residential and are developed with residential structures. The properties immediately south of the subject property are zoned "LC" Limited Commercial and are developed with a broadcast studio, a parking area, and two residential structures. The properties east subject property across Fairview and west of the subject property across Waco are zoned "B" Multi-Family Residential and are developed with residential structures.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" Multi-Family Residential, which accommodates high-density, multi-family residential development and complementary land uses. The site is currently developed with residential uses and is suitable for continued residential use; however, the MAPC has in the past supported the redevelopment of adjacent residential properties for the expansion of existing office/commercial uses.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent residential properties to the east and west by a street, which should further limit detrimental affects on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The proposed Midtown North Neighborhood Plan also identifies this as appropriate for commercial development. The proposed broadcast studio is compatible with the commercial land use designation.
5. Impact of the proposed development on community facilities: No negative impacts on community facilities are anticipated.

**KNEBEL** "This site is a 1 acre platted tract, located between Waco and Fairview, north of 21<sup>st</sup> Street. The applicant is the actual property owners, who are under contract to sell the property to the KPTS television station, who is intending to expand their broadcast studio to the north of their current location, which is in the Limited Commercial zoning, just to the south.

The current site is developed with residential structures. This is an area that was included in the vacation case that you heard just previously. The property to the east along 21<sup>st</sup> is developed commercially, and it is residentially developed behind the commercial properties. Across 21<sup>st</sup> Street you have some mixture of uses; some residential, churches and commercial to the south. Across the street is mostly residential on Waco, but there is one commercial property.

The site will have access to 21<sup>st</sup> Street, which is proposed in the Capital Improvement Program to be repaved and widened at certain intersections. The Comprehensive Plan indicates that the site is appropriate for commercial development. The proposed Mid-Town North Neighborhood Plan, which is currently in the works, identifies this area as appropriate for commercial development. Planning staff is recommending the request for approval, basing that recommendation on the findings found on Pages 3 and 4."

**MICHAELIS** "Are there any questions of staff? May we hear from the applicant?"

**DAVE MCCLINTOCK** "I am with KPTS. Basically I just want to answer any questions you may have. We need to expand the studios, as he said, and we are pleased to be able to do it in this area."

**PLATT** "Where will be tower be?"

**MCCLINTOCK** "The tower that exists may be exactly where it is, or very close to where it is. It won't change much."

**MICHAELIS** "Are there any other questions? Thank you, sir. Is there anyone else in the audience wishing to speak in favor of or in opposition to this item? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses in the middle of the Midtown North neighborhood with commercial uses along 21<sup>st</sup> Street and residential uses along both sides of Waco and Fairview north of the 21<sup>st</sup> Street commercial uses. The properties immediately north of the subject property are zoned "TF-3" Two Family Residential and are developed with residential structures. The properties immediately south of the subject property are zoned "LC" Limited Commercial and are developed with a broadcast studio, a parking area, and two residential structures. The properties east subject property across Fairview and west of the subject property across Waco are zoned "B" Multi-Family Residential and are developed with residential structures. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" Multi-Family Residential, which accommodates high-density, multi-family residential development and complementary land uses. The site is currently developed with residential uses and is suitable for continued residential use; however, the MAPC has in the past supported the redevelopment of adjacent residential properties for the expansion of existing office/commercial uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent residential properties to the east and west by a street, which should further limit detrimental affects on nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The proposed Midtown North Neighborhood Plan also identifies this as appropriate for commercial development. The proposed broadcast studio is compatible with the commercial land use designation. Impact of the proposed development on cor

**LOPEZ** moved, **BLAKE** seconded the motion, and it carried unanimously (9-0).

9. **Case No. CON2001-00023** – Nathan Dudley (owner/applicant) requests a Conditional Use to allow an accessory apartment on property zoned "RR" Rural Residential, described as:

The east 365.41 feet of the west 752.24 feet of the north 1,192.1 feet of the North Half of the Southeast Quarter of Section 5, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located west of Tyler and south of 73<sup>rd</sup> Street North.

**BILL LONGNECKER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting consideration for a Conditional Use to allow an accessory apartment on property zoned "RR" Rural Residential. The site (10 acres) is not platted and located southwest of the W 73<sup>rd</sup> N – N 87<sup>th</sup> W intersection, Sedgwick County, Kansas. The applicant proposes to build a 720 sq-ft guesthouse with bathroom &/or kitchen, similar to a studio apartment. The primary house is approximately 1,238 sq-ft in size. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows the location of all existing structures, the proposed guesthouse and the existing trees/hedgerows. The applicant has indicated that the accessory apartment will be used by guests while visiting the applicant or could be used for rent

to students, but in the long term it will be used by the applicant as a study. An accessory apartment in "RR" Rural Residential Zoning requires a Conditional Use Permit.

**CASE HISTORY:** The property is unplatted and being used for single-family residence. The applicant's property is entirely in a flood plain, per FEMA records; however the applicant's engineer indicates that property's elevation is above the 100-year flood plain.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Rural Residential	Agriculture
EAST: "RR" Rural Residential	Single Family Residence
SOUTH: "RR" Rural Residential	Agriculture
WEST: "RR" Rural Residential	Single Family Residence

**PUBLIC SERVICES:** W 73<sup>rd</sup> N & N 87<sup>th</sup> W are dirt roads at this location. W 73<sup>rd</sup> N does not extend west of this intersection, instead there is a private (dirt) road leading to the applicant's drive. There are no City utilities available at this site. There is a septic system and a well. The County Health Department will evaluate the acceptability of the existing septic system for the proposed expansion.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan identifies this property as Rural. Rural is intended for application in unincorporated Sedgwick County and accommodates very large, single-family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The Unified Zoning Code requires a Conditional Use for Accessory Apartments in Rural/"RR" Rural Residential.

**RECOMMENDATION:** Based on the information available prior to the public hearing, staff recommends the application for a Conditional Use for an accessory apartment be APPROVED, subject to platting and the following conditions.

1. The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood, as determined by the Zoning Administrator. The main dwelling is a brick/stone and frame building with a gable roof.
2. The accessory apartment shall remain accessory to and under the same ownership as the principle single-family dwelling unit and ownership shall not be divided or sold as a condominium.
3. The water and sewer service provided to the accessory apartment shall not be provided as a separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.
4. The applicant shall obtain all applicable permits, including but not limited to building, health, zoning and flood plain permits.
5. The accessory apartment shall sit behind the front of the primary unit.
6. The site shall be developed in general conformance with the approved site plan.
7. Any violation of these conditions shall render this Conditional Use Permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "RR" Rural Residential. The existing uses are residential and agriculture. The accessory apartment is a customary accessory use associated with single-family residence.
2. The suitability of the subject property for the uses to which it has been restricted: The Code permits an accessory apartment in single-family residential districts provided the site meets specific site and building standards. The applicant and the site appear to meet those standards.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Currently the lot has extensive landscaping with numerous trees, bushes and hedgerows screening it from its neighbors. The property is sits well off the private road and is screened from it by a hedgerow. The closest neighbor is to the west and trees screen the proposed site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines.
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.

**LONGNECKER** "The owner/applicant Nathan Dudley is requesting consideration for a Conditional Use to allow an accessory apartment in 'RR' Rural Residential zoning. This property is located just southwest of West 73<sup>rd</sup> Street North and the North 187<sup>th</sup> Street intersection.

The applicant is proposing to use the accessory apartment, which is going to be a 720-square foot guesthouse with bathroom and/or kitchen—that is yet to be decided—similar to a studio apartment.

The primary house is approximately 1,238 square feet. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows all of the existing buildings and a lot of the current, existing vegetation, mostly mature trees and hedge rows around the property. The applicant has indicated that the accessory apartment will be used by guests while visiting the applicant, or could be used for renting to students. But in the long term, it will end up being used by the applicant as a study.

The case history of this property is that it is unplatted and it now has a single-family home on it, which you can see right there (indicating). You can also see a lot of the mature hedge and trees around the property. There is a private drive that the applicant and the neighbor to the west share. The road that leads to this private drive shoots off of 73<sup>rd</sup> Street North and that is also a private drive. It is a dirt road. The neighbors to the northwest is quite some distance away and they themselves have a strand of mature trees and hedgerow.

Right now there are no public services available at this site. The applicant has a septic system and a well. The County Health Department will evaluate the acceptability of the existing septic system for the proposed expansion that would be made by the guesthouse. The applicant's property is also shown to be entirely in a flood plain for the FEMA records that the city staff has; however, it must be noted that the applicant's engineer indicates that the property's elevation is above the 100-year flood plain.

The staff recommends that the Planning Commission considers recommending this for approval, subject to the 7 conditions that are listed in the staff report. We are basing this recommendation on the 5 criteria that are listed on Page 3, including the fact that an accessory apartment is a customary accessory use associated with single-family residences.

The site plan appears to meet the standards that are set for accessory apartments. Looking at No. 3, the affect upon nearby properties. Looking at the properties that the applicant has around him and the applicant's own property, it seems like there are a lot of mature trees and hedge around there, and staff feels that the applicant complies with the 7 criteria lined out, that the detrimental effect will be minimal.

Nos. 4 and 5, the Comp Plan shows that this can be used in this area as long as the provisions outlined in the Code for accessory apartments are met. Again, in No. 5, the impact of this development on community facilities will be minimal. Are there any questions?"

**MICHAELIS** "Are there any questions of staff?"

**HENTZEN** "Bill, in Item No. 3 in the staff recommendations, does that mean that you are requiring separate sewer, or can they use the existing one?"

**LONGNECKER** "In talking with Mr. Bob George with the County, he indicated that that could be hooked up to the existing septic system. It is just a matter of determining whether that system is adequate for the expanded use."

**MICHAELIS** "Thank you, Mr. Longnecker. Is there anybody in the audience who wishes to speak in favor or in opposition to this item? If not, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). The applicant's site and the surrounding area is zoned "RR" Rural Residential. The existing uses are residential and agriculture. The accessory apartment is a customary accessory use associated with single-family residence. The suitability of the subject property for the uses to which it has been restricted: The Code permits an accessory apartment in single-family residential districts provided the site meets specific site and building standards. The applicant and the site appear to meet those standards. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Currently the lot has extensive landscaping with numerous trees, bushes and hedgerows screening it from its neighbors. The property is sits well off the private road and is screened from it by a

hedgerow. The closest neighbor is to the west and trees screen the proposed site. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Zoning Code anticipated this type of use and makes specific provisions for it. The site appears to comply with all the provisions outlined in the Code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.) I move that we recommend to the governing body that the request be approved, subject to staff recommendations.

**HENTZEN** moved, **WARNER** seconded the motion, and it carried unanimously (9-0).

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10. **ZON2001-00018** – Gene Vitarelli (Owner/Applicant); Savoy, Ruggles & Bohm c/o Randy Johnson (Agent) request zone change from “MF-18” Multi-Family Residential to “GO” General Office, on property described as:

Lot 29, Block 3, Park Meadow Estates, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Harry and Todd.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant requests a zone change from “MF-18” Multi-Family Residential to “GO” General Office on a 2.4 acre platted tract located at the northeast corner of Harry and Todd. The applicant proposes to develop the subject property with office uses.

The surrounding area is characterized by a mixture of uses on the developing fringe of Wichita with apartments to the northwest, duplexes to the north, single-family residences to the south, undeveloped property zoned for office development to the west, and agricultural and large lot residential uses to the east. The properties east and south of the site are zoned “SF-6” Single-Family Residential. The properties north of the site are zoned “MF-18” Multi-Family Residential and “TF-3” Two-Family Residential. The property west of the site is zoned “GO” General Office.

**CASE HISTORY:** A zone change request (SCZ-0270) to “C” Commercial was denied by the MAPC and withdrawn by the applicant on November 16, 1971. The subject property was platted as Lot 29, Block 3 Park Meadow Estates Addition on August 18, 1976. On September 27, 1976, the zoning on the subject property was changed (SCZ-0325) to “AA” One-Family and a Conditional Use (CU-160) was approved for the establishment of a multi-family housing development with a gross density of 7 units per acre. The Official Zoning Map dated April 14, 1977 shows the zoning of the subject property as “R-5” General Residence with the restrictions of CU-160 removed from the property, which appears to have been changed as a result of the property being annexed by the City of Wichita. When the Unified Zoning Code was adopted on March 4, 1996, the zoning of the subject property converted from “R-5” General Residence to “MF-18” Multi-Family Residential.

**ADJACENT ZONING AND LAND USE:**

NORTH: “MF-18” & “TF-3”	Apartments, duplexes
SOUTH: “SF-6”	Single-family residences
EAST: “SF-6”	Agriculture, large lot residential
WEST: “GO”	Undeveloped

**PUBLIC SERVICES:** The site has frontage along Harry, a four-lane arterial street; however, the site has no access to Harry due to platted access control. The site’s only access is to Todd, a two-lane collector street that intersects with Harry at the south end of the site. Harry had 1997 traffic volumes of approximately 9,000 vehicles per day. The 2030 Transportation Plan projects traffic volumes on Harry to increase to approximately 13,000 vehicles per day. The projections in the 2030 Transportation Plan assumed that the subject property would be developed with multi-family residential uses. The proposed office uses could increase the traffic volume by approximately 150 vehicles per day. While the increased traffic volume is not significant, the overall traffic generated by the site is high enough (approximately 450 vehicles per day) that planning staff is recommending conditions to ensure that the location of access drives along Todd do not conflict with Harry or the location of access drives to the property on the west side of Todd. Public water and sewer service are available to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. The "High-Density Residential" category is intended to support residential densities in excess of 10 unit per acre, such as garden apartments, condominiums, and special residential accommodations for the elderly. With the exception of a higher traffic generation rate, office uses have similar impacts on nearby properties as high-density residential uses.

**RECOMMENDATION:** Planning staff finds that the subject property is appropriate for office development; however, the "GO" General Office zoning district permits higher intensity uses than can be supported by planning staff. Therefore, planning staff is recommending limitations on permitted uses and additional site design requirements to ensure compatibility with surrounding residential uses. In addition, the location of access drives on the proposed site plan could cause turning movement conflicts; therefore, planning staff is recommending that the location of access drives be approved by the Planning Director and Traffic Engineer. Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions of a Protective Overlay District:

1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
3. Buildings shall be limited to a maximum height of 45 feet.
4. Prior to the issuance of a building permit, the applicant shall submit a site plan indicating the location of access drives on Todd for approval by the Planning Director and Traffic Engineer and shall develop the site in general conformance with the approved site plan. The applicant shall design the site with access drives that minimize turning movement conflicts by either aligning access drives with the access drives to the property on the west or by separating access drives from both Harry and the access drives to the property on the west by at least 150 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses on the developing fringe of Wichita with apartments to the northwest, duplexes to the north, single-family residences to the south, undeveloped property zoned for office development to the west, and agricultural and large lot residential uses to the east. The properties east and south of the site are zoned "SF-6" Single-Family Residential. The properties north of the site are zoned "MF-18" Multi-Family Residential and "TF-3" Two-Family Residential. The property west of the site is zoned "GO" General Office.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "MF-18" Multi-Family Residential, which accommodates moderate-density, multi-family residential development and complementary land uses. The site is suitable for multi-family residential uses; however, the site has not developed in the 24 years that it has been zoned for multi-family residential uses.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent residential properties by a drainage ditch to the north by an arterial street to the south, which should further limit detrimental affects on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. With the exception of higher traffic generation rates, office uses tend to have similar impacts on nearby properties as high-density residential uses.
5. Impact of the proposed development on community facilities: Community facilities are adequate to address the additional traffic generated by the development with the recent widening of Harry to four lanes.

**KNEBEL** "This item is a zone change request from 'MF-18' Multi-Family Residential to 'GO' General Office. The site is 2.4 acres located at the northeast corner of Harry and Todd. Todd is between Webb Road and Greenwich Road. The applicant proposes to develop the site with office uses. The map here is a little outdated. This particular property to the west you considered a couple of months ago for the same request; General Office zoning. That was approved and that zone change has been enacted. We are just a little behind on putting things on the map. Other properties surrounding it to the north are multi-family and duplex. To the east and south are single-family. You can see that this area is on the edge of urban Wichita and to the east is some undeveloped property, but most of the property to the south, west and north has been developed. There are apartments to the northwest and the

duplexes to the north. There is agricultural and residential property to the east and residential property to the south.

The plat for this particular site does limit access to the site from Todd. There is platted access control along the frontage along Harry. The Land Use Guide indicates that this property is appropriate for high-density residential development, and with the exception of a higher traffic generation rate, the office uses that are proposed have similar impacts on adjoining properties as these high-density residential uses; therefore staff feels that the request conforms to the Land Use Guide in that term.

The Planning staff does find, like we did with the property across the street to the west, that this is appropriate for office development, however, we are recommending some restrictions, based on the intensity of uses that are permitted in the General Office district. We are recommending it for approval, subject to a Protective Overlay, which would limit group residences, correctional placement residences, a hotel and motel from the site. It would limit the residential density to the current density of 17.4 units per acre and would limit the building heights to the current permitted height of 45 feet. We are also looking for a site plan like we did on the property to the west, which indicates the location of the drives to ensure that there are no conflicts with the intersection of Harry and Todd and the access drives to the property on the west. These recommendations are based on the findings on Page 3 and 4."

**MICHAELIS** "Are there any questions of staff? May we hear from the applicant, please?"

Osborne-Howes arrived at the meeting at 2:35 p.m.

**RANDY JOHNSON** "I am with Savoy, Ruggles and Bohm, here on behalf of the applicant. We are in agreement with staff comments. I would be glad to answer any questions."

**MICHAELIS** "Are there any questions of the applicant? Thank you, Mr. Johnson. Is there anyone in the audience to speak in favor of or in opposition? It doesn't look like it. (Laughter here). Seeing none, I will bring it back to the Commission."

**PLATT** "I am going to vote in favor of this. I just have a comment for the record. I want to make sure that approval of office zoning on this is not an indication that the Commission would look favorably on a future zone change request to Commercial zoning at this location."

**HENTZEN** "I want to ask a question. (Unable to hear) this setback to spell out the 'following uses shall not be permitted' in Item No. 1, talking about a correctional placement residence. We spent quite a little time on that. What I want to ask is whether...."

**MICHAELIS** "We will be addressing that issue on another item later on."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses on the developing fringe of Wichita with apartments to the northwest, duplexes to the north, single-family residences to the south, undeveloped property zoned for office development to the west, and agricultural and large lot residential uses to the east. The properties east and south of the site are zoned "SF-6" Single-Family Residential. The properties north of the site are zoned "MF-18" Multi-Family Residential and "TF-3" Two-Family Residential. The property west of the site is zoned "GO" General Office. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "MF-18" Multi-Family Residential, which accommodates moderate-density, multi-family residential development and complementary land uses. The site is suitable for multi-family residential uses; however, the site has not developed in the 24 years that it has been zoned for multi-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent residential properties by a drainage ditch to the north by an arterial street to the south, which should further limit detrimental affects on nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to

the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. With the exception of higher traffic generation rates, office uses tend to have similar impacts on nearby properties as high-density residential uses. Impact of the proposed development on community facilities: Community facilities are adequate to address the additional traffic generated by the development with the recent widening of Harry to four lanes.) I move that we recommend to the governing body that the request be approved, subject to the following conditions of a Protective Overlay:

1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
3. Buildings shall be limited to a maximum height of 45 feet.
4. Prior to the issuance of a building permit, the applicant shall submit a site plan indicating the location of access drives on Todd for approval by the Planning Director and Traffic Engineer and shall develop the site in general conformance with the approved site plan. The applicant shall design the site with access drives that minimize turning movement conflicts by either aligning access drives with the access drives to the property on the west or by separating access drives from both Harry and the access drives to the property on the west by at least 150 feet.

**COULTER** moved, **BLAKE** seconded the motion.

**VOTE ON THE MOTION:**  
10 votes in favor.

The motion carried unanimously with

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**KROUT** "Susan, did you have an announcement you would like to make?"

**OSBORNE-HOWES** "Yes. I am resigning, effective after this meeting. It has been nice working with all of you. I have been on here as long as I have been because of a promise I made to Joan Cole. Now that she is no longer on the City Council, I think it is time. I really have enjoyed working with all of you very much."

**MICHAELIS** "I would just like to say, as one of the newer members on the Commission, that you have been very helpful to me. There have been a lot of cases where you have had some very helpful insight and advice and we haven't necessarily agreed, but it has been a good mix."

**GAROFALO** "I may be the oldest member, but I would say that I will miss you and I think your insights in past activities have been helpful to me, too. I want to thank you for your services."

**WARREN** "I would like to say that even though we haven't agreed, I have always respected the fact that you did your homework and you can on with a lot of thought, and I would have to admit I have been influenced by your input."

**OSBORNE-HOWES** "Well, gee, that really makes me feel good. It means a lot to me."  
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**11. Proposed revision to closing dates for zoning applications**

**MICHAELIS** "Is this the revision of the revision of the revision of this?"

**KROUT** "Yes. This is the next revision of the calendar. I do want to tell you that after we have finished this item, we do want to bring back the item about day reporting centers and correctional facilities. If you read in the newspaper a day or two ago, you saw that the City Manager's office brought forward some of the tentative recommendations of the Planning Commission and the District Advisory Board about how to deal with the day reporting centers. There was very strong reaction about allowing the day reporting centers in the Central Business District.

If you remember, John McKay, who has a business down in the business district, thought it was perfectly okay, but the Mayor in particular, has different ideas about it. We promised him that we would bring the issue back and talk about it. So Donna will have a little handout and we are hoping that Joe Lang will come back for that



discussion. We will have that discussion and give you another chance to decide whether these are the right standards or if you want to make any additional recommendations on the day reporting centers.

On the closing dates for the zoning applications, we want to take a look at it. What we attached was the MAPC meeting calendar, which we have changed a couple of times already. The meeting calendars include the Planning Commission hearing dates, the dates that you are here, but they also include, for applicant's purposes and our purposes, what the closing date is—the deadline that they have to file by in order for us to process the case in time—and also the advertising date.

The closing date has, for some time now, been 31 days prior to the public hearing. We try to outline in the memo all of the kinds of activities that have to occur in those 31 days. The first thing is that we have to take off 6 days right away because our Friday mail out day is 6 days before the Planning Commission hearing. So we have 6 days less than 31 days to work on a case. Sometimes we do have to work on weekends, but we don't like to count those, so if you wipe out weekends, that leaves 18 working days and doesn't count any sick days or vacation days and doesn't include all of the other activities that the typical zoning planner has to do. It is a very hectic and stressful job to be a zoning planner, and it is just not possible for us, on a regular basis, to count on getting a report completed, thoroughly, think it through and do all of the research that is necessary, and to get it done any earlier than the Friday mail out date, which is 6 days before the Planning Commission date.

The problem there is that the District Advisory Boards have been asking us, almost since they have been in business, if they could have the staff report to look at 5 days in advance of their meetings. We have gotten in sync, to some extent, with the DABs in terms of our meetings. Their meetings are Thursday afternoons after their Monday, Tuesday and Wednesday meetings at the beginning of the month.

We have another problem, which is that most of the DABs only meet once a month—and we meet twice a month. That means that there are some cases that will come in that are assigned to go to DABs, but because they come in in the middle of the month, the Planning Commission hearing is going to be first and the DAB meeting is going to happen after that. We have told the District Advisory Boards that we don't feel that we are in a position to ask applicants to defer their case for two weeks in order to make the DAB scheduling. There is one District Advisory Board that meets twice a month now.

But this problem of having the staff report in front of them, and it is one that keeps coming up repeatedly, is one that we take seriously because, after all, we do have City Council members who chair the meetings of the District Advisory Boards, and we think that that is important to get this information to them in advance for them to be able to make a good recommendation, too. The only way that we have been able to figure out how to do that is to move back the calendar closing dates so that we have an extra working week in order to prepare the case and get it out to the District Advisory Boards basically a week before we are now getting it out to the Planning Commission and the District Advisory Boards.

If someone else has some creative solutions as to how we can solve that problem, we are prepared to accept those. We just think that we cannot meet the intent of the District Advisory Boards without more time to work on the cases. So we are asking you to consider this. You adopt a calendar every year, so this is a part of the calendar, and we are asking you to move back those dates for the rest of the year so we can meet the request of the DABs."

**MICHAELIS** "Would that mean, essentially, that the agenda items are out to the public prior to when they come to us?"

**KROUT** "I guess we could send you the agendas. I don't see any reason why we couldn't, Dale. We are getting all of the cases ready, except for the subdivision cases. We won't have the Subdivision agenda because the Subdivision Committee won't meet until after that mail out. If you want, we could send you all of the zoning items that we send to the District Advisory Boards at the same time that they get them. If you think it is important for you to get them at the same time as the DABs."

**MICHAELIS** "I just think that it would be important to not have any information 'on the street' so to speak, that we don't have. We are supposed to be the body that acts on that, which I think we are becoming less and less."

**WARREN** "We have some engineers and agents here, let me ask them what impact they think it would have."

**MARK SAVOY** spoke from the audience indicating that he did not think the week delay would present a problem for his clients, but it still leaves the problem of DABs sometimes meeting after the MAPC.

**KROUT** "I guess our feelings on that were that the District Advisory Boards really wanted to be heard before the Planning Commission, they could decide to meet a second time in the month, like the Planning Commission does."

**MICHAELIS** "Is there any reason why we couldn't suggest that? It seems to me that that is the way it ought to be."

**KROUT** "That would take care of one problem, but we still have the problem of having enough time to get out the report basically a week earlier for the DAB to review. We are working until the Friday day of the mail out very often. Last Friday, it was our mail out to the first District Advisory Board and there were four of them for last Monday. That means they may not get the agenda report. If it is mailed to their house, and if they don't get it until Monday and they go from their businesses to the DAB meeting, then they may not get the agenda report at all.

I think that is another problem, when an applicant comes to the meeting and the first thing he hears from a DAB member is 'I didn't get the staff report' or 'I didn't have enough time to read the staff report, and I sure don't feel comfortable about this case'."

**MICHAELIS** "Is there anyone else who would like to speak?"

**KROUT** "Would you come up to the podium?"

**TERRY SMYTHE** "I am with the Baughman Company. One thing I have noticed that a lot of our clients will talk to us about is that they will get staff comments about the same time I do, which is Monday before this meeting. If there are some issues that have to be worked out, it gives a very short period of time, whether it is our company or Savoy, Ruggles & Bohm, or PEC or anybody else, to try to inundate Marvin and Donna or anybody else to try to figure out either what went wrong or who misinterpreted what or find out if that is what they were meaning to say.

I think in that case, if somehow we could get those reports to the clients earlier, it would help. Now, whether or not that complicates what you are trying to do with the DABs, I don't know. I have a little bit of a different opinion about the DABs. I think they are a mini-City Council meeting. That is the way I interpret them. It is also a reversal of the old CPO meetings where in some cases a lot of people didn't care what CPO said or when they met. In many of the DAB cases, the members kind of go 'well, we really don't care what the Planning Commission said because we are hearing it first-hand from you and all of the homeowners that are following you around'.

I like the idea of if the DAB members want to meet every other week; they have the opportunity to do that. I think any time you get the information to them sooner, the better because part of the time when I go to the DAB, and I am sure Randy and Mark are the same way, if the staff report isn't there, I've got to try to explain the staff comments in the staff report. Dale will be there sometimes and sometimes other people. If it is a non-controversial case, a lot of times you guys don't have to show up and then they kind of look at me saying 'okay, which side are you on, be the planner and be the advocate'—and how do you handle that? So I guess I see the advantage of having the reports in the DAB's hands, one way or the other, whether it is before to whether we back off a week, or whether the DABs meet every other week."

**MICHAELIS** "I guess my comment to that is if it is a time period that staff needs to make their preparation, it would be one thing, but if it is just strictly to accommodate the DABs, that is another thing. The reason I am saying that is because it is no different than with us. If we had our choice, we would like to be here once a month, too, but we can't. The workload just doesn't allow that. And we all knew that when we got on this. I think that the role that they are taking with the City Council is becoming more and more, then I think they probably should meet more. I hate to be here and have people get up here and say 'well, the DABs haven't met yet, blah, blah, blah', and then we say that we should defer it. That is not fair to the applicant, nor the agent, nor everybody else that has gone through all of this. So I would rather see something worked out with the DABs setting their schedules to work with ours."

**KROUT** "That would take care of the problem of the DAB meeting after the Planning Commission, but even if they all met twice a month, we still have the problem of getting the report to them five days before they hear the case. The only way to work that is to back it up."

**MICHAELIS** "Then I am all for it."

**OSBORNE-HOWES** "So is that what you want us to do?"

**KROUT** "Yes. We have provided you with a revised calendar. If it doesn't work, at the end of this year, we will re-evaluate it and bring it back."

**WARREN** "So do you need a motion?"

**KROUT** "Yes."

**MOTION:** That the Planning Commission adopt the revised calendar to closing dates for zoning applications.

**WARREN** moved, **OSBORNE-HOWES** seconded the motion, and it carried unanimously (10-0).

**LOPEZ** "I have a question. Do you want to add a second recommendation to that, that we request the DABs to look at meeting twice a month? I think we need that, also."

**KROUT** "Yes."

**MOTION:** That a recommendation be made to the City Council that the District Advisory Boards consider having meetings twice a month.

**LOPEZ** moved, **COULTER** seconded the motion.

**MICHAELIS** "It is for their benefit, along with everybody else."

**GAROFALO** "Maybe we should refine that even further and say that they should meet twice a month, prior to the Planning Commission meetings."

**WARREN** "Whether they do or whether they don't, at least the opportunity is there for this to happen."

**OSBORNE-HOWES** "Didn't the CPOs meet twice a month?"

**KROUT** "Yes."

**MICHAELIS** "Is there any other discussion?"

**REVISED MOTION:** That a recommendation be made to the City Council that the District Advisory Boards consider having meetings twice a month, prior to the Planning Commission meetings.

**LOPEZ** moved, **COULTER** seconded the motion.

**VOTE ON THE MOTION:** The motion carried with 10 votes in favor.  
There was no opposition.

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#### **Off-the-Agenda Item**

##### **Correctional Placement Residence/ ay Reporting Centers**

**DONNA GOLTRY**, Planning staff, "Marvin is passing around a hand-out that kind of catches you up to what our current Correctional Placements Residence Day Reporting Centers regulations do as we proposed and adopted them last week. If any of you listened to City Council on Tuesday, you will know that it was the hot topic of discussion.

Let me briefly go through and recap what we do with day reporting centers and correction placements residences. Currently for correctional placements residences, they are allowed in 6 zoning categories, 'GO', 'LC', 'GC', 'CBD', 'LI' and 'GI'. They are allowed by a Conditional Use if they have a residential zone within 750 feet of the property line. If there is no residential use within 750 feet of the property line, it is a by-right use. They are also subject to licensing requirements through the alternative housing board, which includes a 1,200 foot spacing requirement, and that is that no two correctional placements residences can be located within 1,200 feet of one another.

Now, let's look at some of the issues that are spinning around this whole day reporting center issue. The first thing is should we have any of the zoning standards changed for the correctional placements residences. What we had originally talked about and recommended is that we treat day reporting centers identically as correctional placements residence—that they were similar types of activities and that they could be in the same type of use category. We will bring back up that same issue at the table. Are they the same or should they be treated differently? And if you do think they should be treated differently, then probably we need to revisit the Zoning Code and break them out into separate uses—that separate line items on the 'use categories'.

Then go down to points 1 through 4. These are some of the issues that we will need to discuss. Should correctional placements residences and day reporting centers be prohibited from any site in some of these zoning classifications? These are some of the one that I have heard discussed: 'GO'—there have been people suggest

that they should never be in 'GO', one or the other or both—'LC'; 'GC', and more recently, at the meeting on Tuesday, 'CBD' was suggested as an inappropriate location for day reporting centers. That is one issue.

The second issue is should correctional placements residences and day reporting centers be prohibited if they are within 750 feet of a residential zone. In other words, instead of coming to you as a Conditional Use, if you just had a property that was within 750 feet, you couldn't do a day reporting center there. Or, an alternative suggestion that has been bandied about is should all sites be Conditional Uses, regardless of their location or proximity to residential zoning districts.

Then the fourth issue that has come to the table, if you listened to any of the testimony on Tuesday, it is the issue of distance. Is 750 feet the appropriate distance to use if you are going to have a distance that you preclude them from either being permitted at all or that within which you require this Conditional Use process, or should it have been a different distance, like 1,000 feet, which is the distance we have on some of our Conditional Use-type applications, and is our notice area in the County."

**WARREN** "You are referencing residential here?"

**GOLTRY** "Yes, or 1,200 feet, which is the spacing requirement which is contained within the licensing provisions for correctional placements residences already. That is two full city blocks—a quarter of a mile basically—a pretty hefty distance to separate them out.

Then there is another set of issues. These first four issues that we looked at are pretty much mainline zoning issues. Then we get into a second group of issues that have to do with the siting criteria that they are considering for the day reporting centers. They have been looking at whether or not they should have some or all of the types of criteria that they use for correctional placements residences. Obviously, the answer to that is 'no' on some of them because a lot of the correctional placements residence siting criteria have to do with residential use, like access and different things.

If you will look down at the final part of this handout, some of the issues for siting criteria that may have relevance are proximity to bus transportation convenience, highway access, medical care, police and fire protection, and then the stickiest one is the last one. That is, we have had issues arise where correctional placements residences or day reporting center-type uses are located in maybe 'LI', Limited Industrial category, but uses that may involve children, like day cares, or gymnastics groups or whatever that move in within their area. So then the question becomes should they be allowed to relocate in those zones? Should they get their license if there is a day care nearby or if there is a gymnastics facility nearby? Does that mean that you shouldn't allow the day reporting center to be there because of their proximity to child-centered activities? And, of course, the siting criteria that we originally looked at, I believe the term was 'near and adjacent', which is not a very specific amount. For siting criteria, they are going to have to assign specific numbers to it—750 feet, 1,000 feet, whatever they adopt. It is going to have to be specific so that it is enforceable.

So as you can see, last week's approach to pass something to get it on the books so at least we were at a starting point and then could revisit it hasn't gone very far yet. Instead, they want us to come back to the drawing boards and look more specifically at other issues. So, I guess, at this point.....Joe (Lang) do you want to address this, or Marvin, do you want to address it, or do we want to start through questions? It will be an issue I will be glad to see resolved."

**MICHAELIS** "Donna, I have a suggestion. For example, I am sitting here looking at the first issue, thinking I can give you an answer for each one of these and maybe just as a point of reference, if we would do that and just see what kind of consensus there is on each issue. Maybe we could eliminate a lot of discussion and a lot of time."

**GOLTRY** "All right. I also want to say that I feel like the Alternative Housing Board—which a lot of those meetings I have been to and Dale has been to a lot, and Marvin has been to some of them—they are the ones who were on the front line of doing the siting criteria. So we can be working on those, but we will be making recommendations, I think, that would be going to the Alternative Housing Board on that part, unless we want to incorporate them within the Zoning Code."

**OSBORNE-HOWES** "I have a question. I was going to call and ask this, but I got really busy the last couple of days and haven't been able to. If we were just looking for a siting for a prison, what are the zoning issues there? Are prisons allowed by right in any of these or are they always a Conditional Use?"

**GOLTRY** "They fall in the same paragraphs of Conditional Uses."

**OSBORNE-HOWES** "So it is correctional placement residences, daily reporting centers or prisons?"

**GOLTRY** "Yes, as far handling of the Conditional Use. The difference is that prisons are not allowed in three of the districts. They are allowed in 'CBD', 'LI', and 'GI'. If you look around here, one of the things that is interesting

about this whole issue is that of course we have parolee and prison population in our immediate proximity here all of the time."

**OSBORNE-HOWES** "I guess the reason I am asking the question is that I thought that this day reporting center is like a day prison—in a way—so I thought that would be one way we could treat it if the zoning is the same as a prison."

**MICHAELIS** "Okay. Let's try this, just for kicks and see how it works. I know my answer to the first question, which is 'should any of the zoning standards be changed for Correctional Placement Residence (CPRs)—I would say no. My opinion is that they would be dissimilar."

**WARREN** "Can we get a read-out? When you are talking about a CPR, don't they stay overnight?"

**GOLTRY** "Those are 24-hour facilities. They have been mandated for one of six reasons to be there."

**WARREN** "Yeah. The other is strictly a day-time, up to 10:00 reporting, isn't it?"

**GOLTRY** "Yes. In a sense, they are on 24-hour lock down in the correctional placements residence."

**MICHAELIS** "If we don't do it this way, we are never going to get through this. We are going to sit here and everybody has 20 opinions, and that is fine, but as we have seen over the last months, we are not going to have a consensus. Okay, I am just going to continue here. 'Should the CPRs and/or DRCs be prohibited from an site zoned 'GO' 'LC', 'GC' or 'CBD'?"

Based on the comments we had the last time, I think the only ones that were really opposed to this were for the 'GC', 'LC', 'GI' and 'CBD'. Now, my question is, is there like 'LI' in the 'CBD'? The Central Business District (CBD) is the Central Business District. Is there a different zoning pod within the Central Business District?"

**GOLTRY** "No. There are some Protective Overlays."

**KROUT** "The 'CBD' is a zoning designation. The 'CBD' classification, for instance, goes only to the railroad tracks, whereas most people think that the 'CBD' goes to Washington. So, Old Town, for example, is zoned Limited Industrial rather than 'CBD'. The Central Business District is the area from Central to Kellogg and Washington to the river. It is larger than the 'CBD' district. There is some industrial zoning and there is some General Commercial zoning."

**GOLTRY** "There is even some 'B' Multi-Family zoning right over in this area (zoning)."

**MICHAELIS** "What I am trying to get to is if there is a similar usage like the 'LI' within the 'CBD', then I would say that if we are going to vote it in the 'LI' that it should go in the 'LI' regardless of where it is out. As you know, we have a prison right next door here, and that is obviously in the 'CBD'. So that seems kind of ludicrous to say that we don't want any of this stuff."

**WARREN** "We have another one at the corner of Topeka and Waterman in the old Santa Fe building."

**MICHAELIS** "Yeah. Going back, I would say that maybe we ought to stiffen up the zoning requirements and go to 'LI' and 'GI'."

**GOLTRY** "The least restrictive districts are 'GI' General Industrial and 'LI' Limited Industrial and then you are back down to 'CBD' and 'GC'."

**MICHAELIS** "Well, the discussion we had last time, the motion was, and I think Mr. McKay and Ms. Osborne-Howes was opposed to the motion primarily because it included 'GO', 'LC' and 'GC'."

**GOLTRY** "Right. I don't believe that 'CBD' was part of the discussion last time."

**MICHAELIS** "I think we should consider this as 'GI', 'LI' and 'CBD', which is applicable."

**GOLTRY** "So you are recommending that you have 'CBD', 'LI' and 'GI' as the districts?"

**MICHAELIS** "Right, but only the 'GI' part of the 'CBD'."

**KROUT** "That basically means that the area that you would not permit it to be located would be anywhere between Central, the Santa Fe railroad tracks to about Waterman, to the river. That is all 'CBD' zoning. So if you say it is not allowed in 'CBD' zoning, it wouldn't be permitted anywhere in that area."

**LOPEZ** "I thought he said it would be allowed in 'CBD' 'LI' and 'GI'."

**MICHAELIS** "Yeah."

**KROUT** "Well, but then you said...."

**WARREN** "He wanted to restrict the 'CBD'."

**LOPEZ** "Only if 'GI' is within it."

**MICHAELIS** "I don't want to just say put it in 'CBD' open. I would say if it is an 'LI', or if it is a 'GI' within 'CBD', then I would say put it in there."

**GOLTRY** "It doesn't work that way."

**KROUT** "There isn't any 'GI', there is only 'LI', and the 'LI' is really only Old Town, and maybe the area also south of Douglas behind the Eagle building. That area may also be Industrial."

**GOLTRY** "There is a little tag end of it over by the Boat House."

**KROUT** "Yes, maybe a little bit by the Boat House. But it wouldn't allow anything else there."

**OSBORNE-HOWES** "Could we say not allowed in 'GO', 'LC' and 'GC' and allowed only with Conditional Uses in 'LI' and 'GI'?"

**MICHAELIS** "That is kind of what we are trying to get."

**KROUT** "No matter whether it is close to residential zoning?"

**OSBORNE-HOWES** "Well, we could go further, but if we are looking for a plan. That means that they would always have to come here for approval. But they would only be allowed in 'CBD', 'LI' and 'GI'."

**MICHAELIS** "Another thing I guess I was going to recommend is that we not do a Conditional Use on this. Otherwise, we are going to be going through this battle constantly, and we are going to lose that battle constantly when it comes to installation."

**WARREN** "As I understand, there is only one facility we are talking about."

**JOE LANG** (From the audience) "There is disagreement on that. The current state statute calls for one in Wichita, but what will happen in the future if there is a population increase?"

**HENTZEN** "I have a little different idea on this reporting center that we discussed in the last number of days. I believe that most of those people that report to that center are employed somewhere. I wonder, if they are employed, do they have to hang around that center? And how many would be there at one time? That is my question."

**GOLTRY** "What they have said is that between 7:00 a.m. and 10:00 p.m., they are required to be in an approved location. That is either work, or it could be at counseling, or rehab of some kind. Then, at the end of that period, they are to be in their homes. They have a monitoring bracelet on them so that they presumably have this staff that can monitor that they are either at the site or at work, or if they have been approved to go to a certain other kind of appointment."

I was listening when the attorneys made the presentation last week to see whether they could give us a definitive answer and they can't, either, but they seem to feel like they wouldn't have all 120 of them at the site at the same time. I think there will be peaks because you can anticipate that most of them will probably be working in the days, not necessarily, but you are surely going to have some big peaks in the evening hours. That would be my guess. That would be the peak population."

**HENTZEN** "Here is the new slant that I have on that. We installed, here in the city jail, cameras so that the guy they have locked up in the jail does not have to be taken up to a courtroom for arraignment. They can do it by television. And all this is is a reporting service. Why couldn't they be located throughout the City somebody to come on the television thing they have set up and they see them there and they talk to them, and he doesn't have to hang around any more. In other words, it would be a reporting system, but it is not necessarily in person. What is the problem with that? I am just putting it out that why, when we can do that now, why do we physically bring these people that are working every day through this ridiculous plot?"

**KROUT** "I think the answer is because we have facilities where you kind of report during the day and you report when you leave. That is a good solution, maybe, for some of those. The County has a facility like that for reporting today at 900 North Main Street. I think that the nature of this use is much more intensive, and if you don't have a job, you are required to spend all of your time there because they want a counselor to know where you are. There is a lot of counseling and there are a lot of group sessions that occur there, so you are expected to spend many hours a day there. Joe maybe knows more about that."

**LANG** "Mr. Hentzen, I think you should run for the legislature. The legislature has set the general criteria for this and the Department of Corrections has set the specifications when they put this out for bid. So the company that is operating this center does not really have any options with what they do. They have to run it this way."

**HENTZEN** "If they are enrolled in any of the programs; if they don't have a job and they have to come to that center and just hang around all day, or however many hours, that is a waste. They don't need to be hanging around that center all day. That doesn't do anybody any good."

**LANG** "Unfortunately, we don't have any voice in that. It has been determined what it is going to be."

**HENTZEN** "Well, that is what I said. If these fellows are not locked up, this would be a different and new approach."

**LOPEZ** "What he is saying is that that would have to be taken up with the legislature. We have nothing to do with it here and it has nothing to do with this."

**HENTZEN** "I know, but it is no sin to suggest something to the legislators."

**GAROFALO** "I was just going to say in discussing this Central Business District, if we had a zoning map with the various zonings in the Central Business District that we could look at while we are discussing this, we would have an idea what is there."

**WARREN** "We ought to kind of isolate this down to some kind of segments. It would seem to me that we have a mandate to write a zoning requirement for a day reporting center because we don't have anything on that right now. I guess I am questioning, do we have a mandate right now for the correctional placement residence? If we had one now, that would do it. This is a correctional placement Residence general and the same thing limited."

I would like to isolate now, just a day reporting center and lets talk about that and not get into this other unless we are under a mandate to write both of them now."

**LOPEZ** "Right off of the bat, I would like to suggest that the zoning standards for the DRC be exactly the standards for the CPR. Make them the same and we deal with the whole thing."

**WARREN** "The two of them are substantially different, I would think."

**LOPEZ** "I don't think so."

**WARREN** "Don't you think so?"

**LOPEZ** "A duck is a duck, whether it is wet or dry or quacks. It is still a duck."

**MICHAELIS** "Okay, the purpose of what we are supposed to do here is to come up with some kind of a consensus on these items. I would still like to back up and do what I was trying to do a minute ago and just list a yes or no and ask how many people agree to it or disagree and then we are going to get a feel on which items we agree with and which ones we don't. So bear with me a minute on this and we will try it."

The very first thing was, should they be different. I am going to say no on that.

The next item is should the CPRs and the DRCs be prohibited from any site zoned 'GO', 'LC', 'GC' or 'CBD'? I am going to say that they should only be allowed in 'GI' and 'LI' zoning."

**WARREN** "Well, Susan has a point there. If it is going to be a Conditional Use, then I would say okay. If it is not going to be, then..."

**MICHAELIS** "Well, just hang on...I am going to say that we are going to narrow this down to zoning districts 'GI' and 'LI'."

**WARREN** "And not 'CBD'?"

**MICHAELIS** "Just bear with me on this. Okay, the next one is should CPRs and/or DRCs be prohibited if within 750 of a residential zone, rather than permitted by Conditional Use? I would say yes, because I don't want to have a bunch of Conditional Uses. Okay?"

The third one, should all sites for CPRs and/or DRCs require Conditional Uses, even if they are more than 750 feet from a residential zone? I am going to say no. Now, here again, I am trying to get this to where it is a standard that everybody knows ahead of time if it a Conditional Use, then everybody just comes up and says 'I can get that through'.

Then the last one says 'should the 750 foot standard for CPRs and/or DRCs be increased to 1,000 feet or 1,200 feet or decreased? I think 750 feet is plenty. Anything over that is just arbitrary. So I am going to say no.

Now, what I would like to do is, with a show of hands, yes or no, how many agree with no on the first issue? That is meaning that should CPRs and DRCs be under the same code? Okay, we have 9. That is under the same zoning standard."

**GOLTRY** "Bear in mind—let me interject one thing—if you do do some changing to the CPRs, bear in mind that you are amending the conditions that exist, or the situation as it exists in the Zoning Code, so we may be creating some non-conformities. That is fine, but I just want you to be aware of that as a potential side issue."

**MICHAELIS** "Okay, next is should CPRs and/or DRCs be prohibited form any site other than 'GI' or 'LI'?"

**LOPEZ** "Are you saying only allowed in 'GI' and 'LI'?"

**MICHAELIS** "Yes. Only allowed in 'GI' and 'LI'. How many people would agree with that? Seven. We have seven yes."

**WARREN** "You are limiting them to two zonings 'LI' and 'GI'?"

**MICHAELIS** "Yes."

**WARREN** "I am opposed to that."

**KROUT** "If you want to see where 'LI' and 'GI' is located, (indicating) this zoning map shows it, and we will pass it around. The gray areas are "GI", and there are really only two, one is down where where the County approved the Transfer Station and the other is in the Bridgeport area. The 'LI' on the map are the purple areas, Comotara and Raytheon and the 'GI' area is shown as bright blue, right in the center."

**MICHAELIS** "Dr. Platt, which way did you vote?"

**PLATT** "I voted no."

**MICHAELIS** "All right. The next question is 'should all sites for CPRs and/or DRCs require Conditional Use even if they are 150 feet from residential zoning? I said no."

**LOPEZ** "I agree. Is 750 foot or greater by right?"

**MICHAELIS** "Right. Is everybody okay with that?"

**OSBORNE-HOWES** "No."

**WARREN** "I'm not either."

**MICHAELIS** "Okay, so we have 3 against."

**WARREN** "Of all of the things we control through a Conditional Use, by gosh you would think this would be one of them."

**MICHAELIS** "Okay. No. 4, should the 750 foot standard for CPRs and DRCs be increased to 1,000 or 1,200?"

**LOPEZ** "Didn't we just have that?"

**MICHAELIS** "No, that was if they are greater than 750 feet, do they need a Conditional Use, or would they just be granted by right?"

**GOLTRY** "What was the vote on that?"



**MICHAELIS** "It was 6-4 on No. 3. Okay, let me back up. On No. 3, again, should all sites for CPRs and DRCs require Conditional Uses, even if they are more than 750 feet from a residential zone?"

**WARREN** "I think they should."

**MICHAELIS** "You still think they should require a Conditional Use, regardless of how far away they are?"

**WARREN** "Yeah. I think a Conditional Use in this case is a must."

**MICHAELIS** "Okay, so the last one, No. 4, is do you think 750 feet is far enough, or do you want to go further? Okay. That is 10-0. Okay, essentially, it would be safe to say that our recommendation is they would be considered the same. We were 7-3 on No. 2, which would allow them only in 'GI' and 'LI'. Do we want to have any discussion on that, or use that as our recommendation?"

**BLAKE** "Marvin, when you were talking about downtown Wichita, the 'GI' and the 'LI', I have been talking to people downtown, my Dad owns property down there and that is why I have been talking to them. They don't want them down there. I am just trying to put in some input here."

**MICHAELIS** "Well, whatever we come up with won't be final. This is going to be strictly a recommendation."

**GAROFALO** "With this, we are eliminating the Central Business District?"

**MICHAELIS** "Yes. We are saying 'GI' or 'LI' only."

**WARREN** "Mr. Chair, this is a point of argument here. I believe that if a 'GC' location backed up to a railroad track and was in such an area we could set the position and why not put it in 'GC'? The 'GC' might be as isolated as anything you are talking about. With a Conditional Use."

**MICHAELIS** "Maybe I am wrong on this, but I don't think these things are just going to be popping up on every street corner like a Walgreen's."

**WARREN** "No. I think we are going to have a hard time finding a place to put one."

**MICHAELIS** "I don't think so."

**LOPEZ** "But they know that the only places to look at in 'LI' and 'GI' and that is it."

**MICHAELIS** "That is right. Then you know ahead of time where you are supposed to be looking."

**LOPEZ** "If you don't want to look there, there is your problem. But you know that those are the rules and that is where you look."

**OSBORNE-HOWES** "I keep coming back to the fact that we are in this discussion today because of the State Legislature. It is my feeling that if it is in Wichita or Sedgwick County we are saying that this is a stipulation that we are willing to make. I don't know why we can't be pretty strict about this. I don't think we should just say that it should be by right. I think this is a controversial thing. Now is the time to make some distinction about what we will allow."

**MICHAELIS** "I think that is an excellent point to why make them ??? to start with. So I am going to say, based on the 7-3 vote that it would be our consensus that it would be recommended that we would suggest going into those two zoning categories."

**KROUT** "In Old Town. The area between the railroad tracks and Washington from Central to Kellogg, usually considered part of the downtown. It is not zoned 'CBD', it is zoned 'LI' Limited Industrial. Is that one of the 'LI' places?"

**MICHAELIS** "If it is 'LI', it is 'LI'."

**LOPEZ** "I think the issue that was brought up there, on the very last suggestion under 'Issue' it says 'not near to: would eliminate putting it in Old Town.'"

**KROUT** "Right."

**LOPEZ** "Put in those caveats, and 'LI' as to the adjacent sites that it cannot be near. It takes it out of Old Town."

**KROUT** "Okay."

**MICHAELIS** "Even though it is 'LI', it would."

**KROUT** "The licensing would preclude Old Town."

**MICHAELIS** "Okay, so moving right along. The third one, 'even if they are more than 750 feet from a residential zone'. That was 6-4 and the closest one we have had."

**WARNER** "I want to change my vote."

**MICHAELIS** "Which way did you vote to start with?"

**WARNER** "I voted in favor."

**MICHAELIS** "Okay, then that makes it 5-5. So you are saying that all sites, regardless of where they are should require a Conditional Use."

**WARNER** "Yes. I think on this item, and I think that no more than we are going to have, it is going to be controversial no matter what happens. We aren't going to have these every other day."

**MICHAELIS** "Okay. Is that pretty well the consensus?"

**GOLTRY** "Okay, so is it 5 to 5? Did Frank want to change his vote?"

**GAROFALO** "I think I am changing my vote."

**MICHAELIS** "We are going to vote again. Everybody that thinks it should require a Conditional Use, raise your hand. There are 6. Okay, so it is still 6-4, but it is 4 in favor 6 not. So the consensus is now that we feel that it should require a Conditional Use, regardless of the distance. Okay, Donna?"

The last item, we shouldn't even talk about because it was 10-0 that we think 750 feet is enough."

**GOLTRY** "Now, let's go back and revisit Item No. 1 from the perspective of what you have done to the existing correctional placements residences that are in effect in the City. So we have a clear understanding, and I wish, had I thought about it that I would have gotten hold of J. R. Cox and had him be here because he could probably tell us what they are all zoned off the top of his head.

I know that Parallax, on George Washington Boulevard is directly across from residential use. It was done as a Conditional Use and it is on 'GC' zoning. I know that one because I did that case. I know that the Dodge House..."

**LOPEZ** "But if this is adopted, those that are in place would be grandfathered. So if that is the case, why are we discussing those?"

**GOLTRY** "Because let's think this in terms of is it a problem that Parallax is operating where they are? Because what we are saying is that in the future, all of those correctional placements residences also would be held to this much higher standard."

**LOPEZ** "That is what we are saying."

**MICHAELIS** "And right now, it isn't a problem."

**LOPEZ** "And right now it would be a problem if the residents in the residing area decide it is a problem. It is not for us to assume that it is a problem. Let the residents decide if it is a problem."

**MICHAELIS** "I think we ought to stick to ground zero and go. We can't cover everything that is out there."

**OSBORNE-HOWES** "In these correctional placement residences, do they have a 24-hour monitor, or do they wear a...?"

**GOLTRY** "It is a different system."

**OSBORNE-HOWES** "What makes it different?"

**GOLTRY** "They are placed there for one of six reasons; court supervision in lieu of completing a sentence; as an alternative placement to prison...."

**WARREN** "But they haven't violated the rules."

**LANG** "We may well have some people living in a correctional placement residence that will have to go to prison."

**GOLTRY** "A lot of them would be drug addicts that are in a rehab-type thing."

**OSBORNE-HOWES** "I just think that it would be ever so much easier if we said that those were two different animals and we wouldn't have to deal with correctional placement residences. All I am thinking is what we are dealing with now specifically is the daily reporting centers. That is a new animal that the State Legislature has handed to us. I think that it is the animal that we need to deal with. I think there is a difference. We can argue, but I see them as different."

**KROUT** "So they should be treated more restrictively than the residential facilities?"

**OSBORNE-HOWES** "I believe they should be."

**KROUT** "But does it bother you to leave the correctional residences the way they are, which means they could be permitted in an Office or a Commercial district?"

**OSBORNE-HOWES** "They currently are handled by Conditional Use."

**WARREN** "Susan, you did a better job of giving my argument."

**KROUT** "I suppose you could vote, asking how many people, having heard that, would rather keep the residences the way they are and have these more restrictive standards for the day reporting only."

**MICHAELIS** "Okay."

**GOLTRY** "The reason I have rephrased the question is that when you have sequentially gone down through and incrementally made these four votes, what you have ended up with is a district that is more restrictive than how we deal with correctional placement residences. It is even more restrictive than how we deal with prisons."

**MICHAELIS** "Is that a bad thing?"

**GOLTRY** "Maybe not."

**MICHAELIS** "Because if something comes in here for a correctional placement, we are going to have just as much opposition to that as we are going to have for day reporting centers."

**GOLTRY** "Well, we have done those cases before."

**MICHAELIS** "Because we didn't have the two, but now that you have the two...."

**GOLTRY** "But I mean even a prison, were you to do a prison...basically you are defining this as a more dangerous animal than a prison, which is fine, if that is what you are going to recommend, but I think it is important to know that that is what is happening."

**MICHAELIS** "Well, the way we are doing it right now is we are saying that correctional placement residences should be more restrictive than they currently are."

**LOPEZ** "Right."

**WARREN** "But at least we need to talk about that. We are not mandated to that position."

**KROUT** "I just think that, now that you have gone around the circle and you understand all of the implications better, you could vote again and see if you really want to put the residential facilities under more restrictions than they are now."

**MICHAELIS** "This is America, so everybody has a right to change their mind. All right. One more time."

**LOPEZ** "But wait a minute. The issue was, when we were starting at the beginning, was did we want daily reporting centers and correctional placement residences in the same zoning standard. That was the question. I am not concerned with how the legislature is trying to take this population and define it more narrowly each time to

get it into communities—my point is that they are all the same, no matter what, and we have to deal with them the same way. And to sit here and start saying ‘well, this individual chose to break the law, and are they better than this other individual? That isn’t what we are here to discuss. We are here to discuss where we are going to place these agencies. That is all we are here to discuss. There is no difference between the ducks in there. They are the same. It is where we are going to place them that we are here to discuss.”

**GAROFALO** “Are the correctional placement residences by right in certain zones, and are they only with Conditional Uses?”

**GOLTRY** “They are always by right in all 6 zones unless they are within 750 feet of residential zoning.”

**KROUT** “But what has happened over the past 5 years is that you have approved at least 4 or 5 kind of hard to find sites that are less than 750 feet away. Most of them, therefore, have come to you, and I think in all cases, they have been approved as Conditional Uses, like Parallax, like the facility on east Murdock, like the Dodge House.

One that I know of that didn’t fit in a residential facility by right is Mirror, Inc., which is right in the middle of the Willowbend Industrial Park. Recently, there has been debate about whether or not that was a good idea. In that Industrial Park there happens to be child-centered businesses, a gymnastic club, a performing arts facility, and they are very near to this residential facility, which also happens to have sex offenders. So the City Council and the Advisory Board are discussing whether that is a compatible use or not, or whether it is that people in business in an industrial district ought to take the risk of being maybe incompatible uses, or whether or not there ought to be additional limitations on the kinds of prisoners, or on all prisoners; the kind of residents or on all residents, if they are located near certain uses.

So as part of licensing, that is still going to be discussed by the Council. But, for the most part, the places where the residential facilities have occurred have come to you in or near residential districts.”

**WARREN** “We are setting up a criteria here for both of these that is more exacting, more demanding than a prison, as Donna said.”

**MICHAELIS** “We are not, Mr. Warren. We are not doing that. All we are doing is simply making a consensus opinion and from here it goes back to the Council for them to handle. We aren’t really doing anything.”

**WARREN** “Well, we are recommending and that is all we ever do anyway.”

**MICHAELIS** “I don’t know that we are recommending. I think we are just saying what we feel we agree with.”

**GOLTRY** “And I am not disagreeing either. I am just making sure that you are really aware of the fact that it is a relatively major change to make it stiffer for the correctional placement residences.

I have been talking about the daily reporting centers in the terms that they would always be classed as what you call a correctional placements residence general, which means they would have more than 15 people associated with them. If you look at the correctional placements residence limited, just to further muddy your waters, that is a Conditional Use in ‘NO’ and it is a permitted use under the same 750 feet, and then it kicks into Conditional Use in ‘NR’. So we allow these correctional placement residences as stands today in quite a few places.”

**MICHAELIS** “That is what the whole discussion is about.”

**GOLTRY** “That is right.”

**LOPEZ** “We aren’t talking about the past, we are talking about the future. If you are talking about we have tightened up the restrictions, that’s fine, we have tightened them up.”

**MICHAELIS** “I don’t care whether the guy sleeps there or he comes and reports in in the day. To me, that doesn’t make any difference. Okay, we are going to vote again, on the first one. Do we think that the zoning requirements should be the same?

Okay, there are four in favor, so that would mean 6 opposed. So we are essentially saying that we want to set up a separate zoning category for day reporting centers.”

**OSBORNE-HOWES** “I guess where I am coming from on this is that I don’t think that any of us here are saying that we are completely satisfied with correctional placement residences as they are now and would like to have it go back to the DABS for some other way of doing it even better. All I am thinking is that what we have been asked to do, because of this current law and state legislature action, is specifically to a day reporting center. I think what we ought to do, as part of the recommendation, is say that this is just a test for a year or six months, and at some

point let that be evaluated. I don't think we have any operating day reporting centers so we know truly what the differences are. To me, there are differences."

**MICHAELIS** "Okay. So that pretty well expresses our opinions."

**KROUT** "Just for a little bit of clarification: is there a consensus that if we treat day reporting centers differently than we treat residences today, we should leave the same rules that we have had for the correctional residences?"

**WARREN** "Well, I think we ought to change that, but not today."

**LOPEZ** "But the question he is asking, though, is: do we want to treat them the same."

**WARREN** "I think we are going way too fast."

**KROUT** "Let me ask the 6 people who said that they should be treated differently, do you all agree that what you meant by that was to leave correctional residences the way they are, at least for now? Yes? Okay, that will help."

**MICHAELIS** "Okay, now we are going to move down to the next issue. Do you agree with the 'siting' criteria that the Council is considering for licensing of DRCs, and should some or all of these also apply to CPRs—close proximity to bus transportation; convenient highway access; access to medical care, police and fire protection, and other services.

Personally, I don't think any of those apply. The only one that really applies to me is the last one—not near to day care/youth centers, parks, drinking establishments, adult entertainment facilities, schools, 'child-oriented' businesses (gymnastics academy), residences for the disabled, and possibly day facilities for the disabled'. I don't care whether it is close to a bus station if it meets the other criteria, etc."

**GAROFALO** "Doe the State require some of this?"

**GOLTRY** "Uh huh."

**KROUT** "That is where some of it is coming from."

**MICHAELIS** "And by the time you put all of this stuff in here, there is no place to put these uses."

**WARREN** "Mr. Chair, the other thing I think we are going to run into, is now we are saying that they aren't not going by right anywhere, it is going to be a Conditional Use wherever we go, but we've got some 'LI' and 'GI' districts, if we did it by right that are pretty close to residential, within 1,000 feet. If they are going to jam them in there without conditions...."

**MICHAELIS** "No we're not. Not now."

**WARREN** "Yeah, not now. We are going with Conditional Uses. I guess what I am saying is that if we are going into 'LI' and 'GI' with conditions, then I don't know why we couldn't go into 'GC'."

**MICHAELIS** "That is kind of what I was thinking. I was kind of like if we are going to limit it to two, let's get rid of the restrictions and say by right you go there."

**WARREN** "I don't think that is what we are hearing. I think we are saying that they have a Conditional Use wherever you go, and if that is the case, then I would like to open it up to a little bigger area, and 'GC' would be that. I see some 'GC' districts that would be better than 'LI' and 'GI'."

**MICHAELIS** "That is why those two were kind of related to each other."

**GOLTRY** "And you don't have to do a pure thing. You can do 'GC' as a Conditional Use always, or eliminate it altogether, or you can do 'LI' as a Conditional Use. Well, you voted to always do them as a Conditional Use. Never mind."

**WARREN** "I think we ought to increase our districts to at least include 'GC' if we are going to have Conditional Uses. If we aren't going to have Conditional Uses, then I feel like we don't have to. If we are going to go with Conditional Uses, then I would like to increase that to at least include 'GC'."

**KROUT** "I think there will be very few sites zoned General Commercial that are more than 750 feet away from a residential district. I say that because most of the 'GC' districts are the older strip zoning in older neighborhoods. So, for the most part, they won't be there."

There may be some places where there is some 'GC' and 'LI' zoning mixed and someone could just ask to upgrade their zoning to 'LI' at the same time."

**MICHAELIS** "I have another comment I would like to make. I really think it would behoove us, if this thing could have some areas that were as a right to use. The reason I say that is that because when somebody comes in and wants to locate, they know exactly where to go to locate that they are going to be granted that right. When we tie a Conditional Use onto it, I don't care if it is 'GI' five miles in the air, people are going to be against it. So if we are going to use Conditional Uses, there is really no reason to limit to any zoning district. We changed the whole thing. We backed up and said that they are not going to abide by the same rules."

**WARREN** "Can I ask the City Attorney a hypothetical question? Several years ago, maybe 15 years ago, the State came up with a real problem--nobody wanted a group home, and finally the State came down and circumvented all zoning ordinances and said 'we'll put them wherever we want to'. Is it a possibility that if we can't come to some grips with this?"

**LANG** "There are several bills in the legislature right now that will be considered next week on this same issue. Some versions of those say cities cannot determine where they are going to be."

**WARREN** "That is what I am afraid we are going to run into if we get too tough."

**LANG** "There is another set of versions that say they will comply with City zoning, so we don't know where it will go. But if the state can't find somewhere to put them, they are going to place them eventually."

**MICHAELIS** "Donna, does that answer your questions?"

**GOLTRY** "Well, let's see. I think that it looks like you decided to treat correctional placements residences different, but there would be further study before you did anything on correctional placements residences. Is that right?"

**KROUT** "They will be left as is for now, but they will be subject to further study and discussion."

**GOLTRY** "And they will require a Conditional Use and be permitted in the 'LI' and 'GI' district and that would preclude the need for the 750 foot standard actually. If it is always with a Conditional Use, there is no need for a distance requirement."

**KROUT** "That it would be prohibited within 750 feet of a residential district. Did you vote on that?"

**MICHAELIS** "Yes."

**GOLTRY** "Okay, so you are saying that they are prohibited."

**KROUT** "And when we bring this to the City Council, we will indicate."

**MICHAELIS** "That should be expected on something like this."

**WARREN** "Mr. Chair, I commend you on getting us through this."

**GOLTRY** "And on the terms of the siting criteria, your priority was the last one."

**HENTZEN** "I just want to tell you that I am opposed to taking away the downtown district from these places."

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**KROUT** "I do want to point out to the Planning Commission that for the second MAPC hearing date in a row that staff and MAPC has agreed on for all subdivision and vacation cases."

**MICHAELIS** "We will have to be more careful not to do that next time. Okay, are there any other items? Yes, we have Item No. 12."

## **12. Discussion on notifications policies**

This item is bringing back a subject that you discussed initially at your October retreat. If you go back before that, the elected officials, when they adopted the Comprehensive Plan, did say that they wanted the Planning Commission to discuss the issue of subdivision notification and decide whether or not there should be any kind of notification on subdivision cases.

We had drafted, after that October retreat, some suggestions on the policy, and even a written notification form, so you could see the format of a letter that could go out to neighbors. The form indicated that this is not a zoning case and that we are not talking about land use issues, we are talking about platting issues, and we identified what those platting issues are, so that you wouldn't have people coming down saying that they didn't want this church, didn't want any homes, because the zoning issue has already been determined and what you were doing was not zoning.

As I recall from the discussion—and it was informal and there was no action—but there seemed to be some Commissioners who were leaning toward not a written notice, but maybe a trial period where we would require the posting of signs on the property like we post signs today for zoning changes. Since that time, we did a survey of 14 planning commissions, and then in the mail out of this week on the last page, we did a follow-up survey of seven of those who responded back to us with more detail.

We didn't get to talk about this, but there were a few interesting things that I think we got out of the survey that I just want to point out to you. Most planning commissions don't have as many as 14 members so mayors in other cities often have more power in terms of making appointments than the mayor does here. He only has one vote. In other places, they appoint some multiple number or of all of the people on the planning commission. I am not suggesting that these are good ideas or not, but I just thought that it was interesting to see how they how they vary. The question always comes up about how many people are in the development industry on the planning commissions. You saw the numbers—they varied from about 20% to about 50%, which is about what we have on this Planning Commission today.

Most of the planning commissioners had no term limits like the City has for board appointees. A fair number of them met in the evenings, but it wasn't a majority of them. We noticed that most planning commissions have long meetings like we do, so you should at least feel that you are part of a big club with other planning commissions on that. Several of them have zoning subcommittees as well as subdivision subcommittees. That is a subject that we talked about on and off for a couple of years, and we were interested in seeing whether other commissions do that, and some of them do.

About half of the commissions did require written notice on subdivision. I didn't think there would be that many, but there were. Also, a majority of the boards had requirements that you meet with the neighbors or the neighborhood associations before the planning commission hearings. I think, to some degree, the District Advisory Boards serve that purpose, because they are a vehicle where, if there is not any other kind of meeting for the neighborhood to come together with the applicant before the hearing, at least they meet at the DAB meeting before the Planning Commission.

And then, on the last page, there is a little more information on the seven cities that responded on zoning and subdivision. They had similar requirements, I would say, on zoning, to ours.

One thing, the sign that is in front of you now is something that we talked about in staff and we just wanted you to take a look at it. There are two things we are trying to do. One is: if you are trying to have one standard sign and it is going to talk about subdivision, potentially, and vacations, as well as conditional uses and zoning—right now we put signs up that say 'zoning adjustment.' But really it is a specific category of minor deviations that are done administratively. So, I think that the consensus on the staff was that, if you were going to announce something more general, like maybe 'land use change', maybe there is a better general way to say that something is happening on this property.

The other thing came originally from the City Manager, suggesting that if someone building a tower, why don't you say somehow on the sign that they are building a tower. We thought that without too much trouble, and if the people who were really interested would get up a little closer to read it, we could provide more information about the case, so that people know that they are going to build a tower, or is it new zoning for commercial development, or is it something else. They could write the case number down, so that we would know what case they were talking about. Sometimes it is hard, just with the general area when they call in, to figure out what case they are talking about.

So this is something that we are working on. How we would resolve it, I think, depends on how much the sign has to do with subdivision. But we would continue to use our current signs until we run out of them, then when it is time to reorder, we might make a change similar to what you see in front of you today.

The other issue that keeps coming up from time to time is whether our notification on zoning is adequate. Is the distance adequate, should we notify people besides the property owners, and that sort of thing. So that is part of the recent survey, too. I think I will stop there. Dale, do you have anything else that you think we need to talk about on this issue?"

**MICHAELIS** "We will try to do this the same way we did on the correctional placement residences. We will see what kind of results we get here.

Item No 1. Should we require sign(s) to be posted for subdivision applications? Okay, everybody who thinks 'yes', raise your hand. There are 5 yes; 4 no.

Okay, Item No. 2—should we require written notice to neighboring property owners for subdivision applications, and if so, what should be the distance for notification. Let's take the first part first. Should we require written notice to neighboring property owners for subdivision applications? All of those agreeing raise your hand—all of those in opposition. There are 2 yes; 7 no.

Then, if so, what should be the distance for notification? What is it now, 250 feet for zoning?"

**KROUT** "It is 200 feet for zoning in the city and 1,000 feet in the county. The communities that had written notification for subdivision, most of them had similar requirements for subdivision."

**MICHAELIS** "Then, No. 3—should we change any of the distance requirements for written notice on zoning items? Okay, let's just say that if we are going to do this; let's just stick to the same distances for notification. Does everybody agree with that? Okay.

Then, No. 4 is shall we make any other changes in notification policies?"

**GAROFALO** "We aren't talking about advertising subdivisions, are we? That isn't one of the things we are talking about is it?"

**MICHAELIS** "It could be."

**GAROFALO** "Okay, it could be, but you are not suggesting that at this point."

**KROUT** "No. We don't think that is necessary, even though it is now in the Eagle instead of the Derby Reporter."

**GAROFALO** "I agree."

**MICHAELIS** "He is asking shall we make any other changes, so we are basically saying that the notification policies that we are currently doing are adequate? Okay.

So, really the only two items to discuss are the first two. Let's back up to No. 1 'should we require signs(s) to be posted for subdivision applications'. That was pretty much a 50-50, so are there any comments?"

**WARNER** "I would like to take No. 2 first."

**MICHAELIS** "Okay."

**WARNER** "Because I think No. 1 is more extraneous. I am really not opposed to putting some signs up, but I am opposed to No. 2."

**MICHAELIS** "Well, they are kind of tied together."

**GAROFALO** "I feel the opposite way. I think a written notice is good. Signs get put up, and we have had a lot of people who have said that they don't see the signs, or the sign blows away or falls down or something. With a written notice, I think we have a better argument. We can say, 'you were given a written notice, so don't complain to us now, after the fact'."

**WARNER** "I think we have a better argument with a sign because now we don't do anything."

**GAROFALO** "I am still inclined to go along with the written notice rather than a sign."

**MICHAELIS** "One question I think is pertinent here, and this needs to go to staff, and we have referred to this in the past, do we have the manpower and the money to do all of this stuff?"

**KROUT** "We would have to raise subdivision fees in order to have more staffing resources to send written notices."

**MICHAELIS** "I just wanted to get that out. So currently, we don't have?"

**KROUT** "Right. The signs, I think we could afford. I think they cost \$3.00 apiece and we are reimbursed by the applicants."

**MICHAELIS** "But somebody has to go out there and put it out."



**KROUT** "It isn't us. We don't do that; the applicant does."

**WARREN** "Mr. Chair, I am looking with interest that the only one of these 7 communities, the only one that requires any kind of posting of signs was Overland Park. No other community required that. Zoning and variances offer a certain amount of discretionary judgment on our part. We may approve it, we may not and so we advised the public to come in and their input is going to be listened to and maybe entered."

There are a couple of other things under constitutional private property rights and land use that we cannot deny, and that is a building permit. If a guy owns a lot and wants to build a home on it and he is willing to follow the building codes, the health codes and drainage codes, we cannot deny him a permit. Subdivision is the other thing. If a man comes in here and wants to subdivide his property and he is willing to follow the subdivision regulations, the health codes, the drainage codes and all other requirements, we cannot deny him the right to subsidize property. So, I think it is misleading to the public to say 'come on in here and we will listen to you and that will help us make our decision', when in fact our decision is made. He, by right, is entitled to subdivide his land. We can't stop it. So I think it is a misleading thing."

**MICHAELIS** "That is a good point."

**KROUT** "I love the way that Commissioner Warren always makes all of his statements with certainty like there is not another side of the coin, but I do need to point out that the Kansas Court of Appeals, just within the last month or two, disagreed with this most recent statement made this afternoon. They said specifically that subdivision is a discretionary, not a ministerial process. Many of your standards are discretionary. You tend to waive standards fairly frequently, and that makes it discretionary. The Court of Appeals said that this is not a ministerial process; this is not a 'you meet the requirements and there is not any issue of discretion'. There are always issues of discretion on subdivision plats."

Depending on how you write the subdivision regulations, you can refer to other plans and policies and those can be brought into the decision making too. It is a discretionary process; it is not something that two planning commissioners might not disagree on. You disagree once in a while on subdivision items. If they were so clean and simple, we wouldn't need a planning commission to decide them. They would just all go through staff."

**WARREN** "I want to speak to that. The fact is that yeah, state courts, courts of appeals, and district courts do have variable opinions on these things, but I can show you at least three United States Supreme Court cases, and I am sure that our illustrious Director is very familiar with the Supreme Court rulings on Agins, and they say that it is an absolute right that you can subdivide your land."

Now, we have the police powers and important powers to restrict that right as long as it is reasonable restriction. I submit that we don't have the right to tell a guy he can't use his land for all viable economic uses, and I think that is America."

**MICHAELIS** "So, do you think we should put signs up, or not?"

**WARREN** "No, sir."

(Laughter here)

**PLATT** "I think I agree with Frank. If we are going to ask them, then at least we ought to give them a chance to know that."

**WARREN** "Well, every plat has to have a publication."

**OSBORNE-HOWES** "It seems to me, when you look on Page 3 of this survey results, that at least half of them give written notification on subdivision."

**WARREN** "Huh? Where did you see that?"

**OSBORNE-HOWES** "Page 3."

**WARREN** "I am looking at that page."

**OSBORNE-HOWES** "Well, only one puts up signs. Seven of the 14 send written notification. I think they need to be informed, but I don't know that they need to be informed in writing. I think a sign is the simplest thing. What on earth do we have to lose by giving more information to the public? Someone help me out here."

**MICHAELIS** "I will answer that question."

**OSBORNE-HOWES** "Well, let me finish. Beyond just saying it will slow the process or confuse people, or they don't know, the public has a right to know. That is a basic right. I don't think we have to go out of our way on subdivision. That is one reason I don't think I support the idea of written notification, but I think a sign put out makes sense."

**MICHAELIS** "The reason I would take exception with that—obviously, I am in that industry—for those of you, and it kind of comes back to how many developers and builders should be on here, and I guess I would liken that to the Board of Regents. How many non-educational people are there on the Board of Regents? Probably not very many."

But anyway, part of the reason why it would become more difficult is getting through the whole design process. I am not saying that the public doesn't have a right to know, but they would come and they would try to design and say 'we should do this' or 'we should do that', and they really aren't aware of the requirements, and they don't have any idea of what is involved. It is not their money at risk; it is somebody else's money at risk. If they want to put up their money and be part of it, great, but knowing about it and being involved in the process are two different things. We have to be real careful of how far that process goes. If we are going to get the public involved, we don't need to be here. Because the public is going to always say no. We talk about being able to just stamp things. They can stamp it. Nobody is ever in favor of anything when it affects them. Now, they are willing to move in to it a year later and not have a problem with it, but when something comes along that is next to them, it is totally different.

I think you are really starting to get into the rights of a person in that industry and their rights to conduct his business."

**OSBORNE-HOWES** "I think you need representation from a lot of people. I know that you are seeing things as a developer. I am looking at it from outside. I am not saying that they should be involved in the process. I don't think that is the reason why they should be informed. I think there have been plenty of times where we have had people come up here who are very informed and were not 'not in my back yard' people."

Sitting up here, we are quite able to discuss things and we are in control. I honestly don't think we would get that many people up here if the signs were put out."

**MICHAELIS** "I don't think we would get more than we get now."

**OSBORNE-HOWES** "I don't either, but I think it is the question of giving them the opportunity to be informed. That is part of the planning process. When we agreed to be planners, we agreed to that responsibility."

**WARREN** "I think this potential encroachment into land use and into private property rights could extend itself to the point of a building permit when the neighbors ask the guy who has a lot, and you are going to put a sign up there, saying that we want them to submit their plans to a committee and see if we approve it. I think that is almost the next step because land rights do include subdivision of your land."

I would have to ask Marvin if we have somebody to come before us and that somebody meets every requirement in our subdivision regulations, and we get testimony from every agency that they are in compliance—this would be county engineers, this would be the Health Department—and if we got all of this, I am going to ask you, Marvin, do you think we have the right to deny it if the guy has done everything that we have required him to do? I don't think we have that right, if he has satisfied our written requirements."

**KROUT** "I don't want to belabor this discussion, but I guess what I have told you is that I think that a lot of your requirements are sometimes debatable in terms of interpretation of whether or not the standard has been met. And when we do have problems with meeting a standard, your practice has been to sometimes bend the rules. So I think that it is common to use discretion."

**GAROFALO** "I think that in these cases there is almost always an impact on somebody other than the private company owner. If we go along with this logic, to me there is no need to have any rules and regulations or no reason to have any kind of plan, any kind of zoning, any kind of anything, if we are just going to open it up so that you can do whatever you want with your property and think that it isn't going to have any impact on anybody."

**WARREN** "I don't think that I suggested that."

**WARNER** "I think they are getting a little carried away here. The question is whether or not we want some type of notification for subdivision before the process starts. I guarantee you if we put a couple of signs out in an area, we would be lucky to get 6 people who would call to see what is happening. I don't think it is a problem."

If nothing else, the PR would be worth it. It would be worth it for the Planning Commission, it would be worth it for the developer. You want people to know what is going on, and if you get two guys in here at Subdivision talking about access and everything else, that is going to be a lot. I think it is kind of silly."

**MICHAELIS** "Okay, so the consensus is, based on staff's comment that they could afford to do the signs, but they really couldn't afford to do the written notice. I think our consensus is that we would support putting up signs but would not support the written notice. Is that correct? Okay.

Since we have decided that, we don't need to discuss Item No. 2 because it then goes away. Item 3 and 4 we handled. So, really, the only thing we are doing is saying to go ahead and post signs for subdivision cases.

The last thing we can do is if we want to, we can hold this and send it to the DABs and some other routes and get their input on it and see what kind of feedback we get. We can either do that or we can just end it here.

One thing, for those of you who don't sit on Subdivision, something we are starting to see already is the access management, and I agree that that is something that we should look at. When we get a plat in here and a guy comes in and says 'I only need one entrance', that should be a good thing, according to access management. But then the Fire Department says that we need to accesses. That doesn't work."

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**MOTION:** That the Metropolitan Area Planning Commission adjourn.

**HENTZEN** moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

The Planning Commission officially adjourned at 4:22 p.m.

State of Kansas     )  
Sedgwick County    ) <sup>ss</sup>

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)